

CRAVATH, SWAINE & MOORE

RECORDATION NO. 9644 Filed & Recorded

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

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RECORDATION NO. 9644 Filed & Recorded

AUG 16 1978 - 1 50 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 9644 Filed & Recorded

AUG 16 1978 - 1 50 PM

INTERSTATE COMMERCE COMMISSION

Pennzoil Company

Lease Financing Dated as of March 21, 1978

August 16, 1978

Dear Sir:

Pursuant to Section 20c of the Interstate Commerce Act and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Pennzoil Company for filing and recordation counterparts of the following documents:

1. Equipment Lease dated as of March 21, 1978, between First Security Bank of Utah, N.A., as Trustee, and Pennzoil Company, as Lessee.

2. (a) Trust Indenture dated as of October 1, 1976, between First Security Bank of Utah, N.A., as Owner Trustee, and United States Trust Company of New York, as Trustee.

(b) Supplemental Indenture dated as of March 21, 1978, between First Security Bank of Utah, N.A., as Owner Trustee, and United States Trust Company of New York, as Trustee.

The names and addresses of the parties to the aforementioned Agreements are as follows:

(1) Trustee--Indenture Trustee--Mortgagee:

United States Trust Company of New York,  
130 John Street,  
New York, N. Y. 10038

MAURICE T. MOORE  
BRUCE BROMLEY  
ALBERT R. CONNELLY  
FRANK H. DETWEILER  
GEORGE G. TYLER  
WILLIAM B. MARSHALL  
RALPH L. McAFEE  
ROYALL VICTOR  
ALLEN H. MERRILL  
HENRY W. KOSMIAN  
ALLEN F. MAULSBY  
STEWART R. BROSS, JR.  
HENRY P. RIORDAN  
JOHN R. HUPPER  
SAMUEL C. BUTLER  
WILLIAM J. SCHRENK, JR.  
BENJAMIN F. CRANE  
FRANCIS F. RANDOLPH, JR.  
JOHN F. HUNT  
GEORGE J. GILLESPIE, III  
RICHARD S. SIMMONS  
WAYNE E. CHAPMAN  
THOMAS D. BARR  
MELVIN L. BEDRICK

GEORGE T. LOWY  
ROBERT ROSENMAN  
JAMES H. DUFFY  
ALAN J. HRUSKA  
JOHN E. YOUNG  
JAMES M. EDWARDS  
DAVID G. ORMSBY  
DAVID L. SCHWARTZ  
RICHARD J. HIEGEL  
FREDERICK A. O. SCHWARZ, JR.  
CHRISTINE BESHAR  
ROBERT S. RIFKIND  
DAVID O. BROWNWOOD  
PAUL M. DODYK  
RICHARD M. ALLEN  
THOMAS R. BROME  
ROBERT D. JOFFE  
ROBERT F. MULLEN  
ALLEN FINKELSDORF  
RONALD S. ROLFE  
JOSEPH R. SAHID  
PAUL C. SAUNDERS  
MARTIN L. SENZEL

AUG 16 1978 - 1 50 PM

INTERSTATE COMMERCE COMMISSION

8-228A130

No.

Date

Fee \$ 1.10

ICC Washington, D. C.

COUNSEL  
ROSWELL L. GILPATRICK  
CARLYLE E. MAW  
L. H. BRESLIN, JR.  
GEORGE S. TURNER  
JOHN H. MORSE  
HAROLD R. MEDINA, JR.  
CHARLES R. LINTON  
4, PLACE DE LA CONCORDE  
75008 PARIS, FRANCE  
TELEPHONE: 265-61-54  
TELEX: 290530  
33 THROGMORTON STREET  
LONDON, EC2N 2BR, ENGLAND  
TELEPHONE 01-606-1421  
TELEX: 8814901  
CABLE ADDRESSES  
CRAVATH, N. Y.  
CRAVATH, PARIS  
CRAVATH, LONDON E. C. 2

*Quintana*  
*Edmundo*  
RECEIVED  
AUG 16 1978  
FEDERAL RESERVE BANK  
I. C. C. REGISTRATION BR.

(2) Trustee--Owner Trustee--Lessor--Mortgagor:

First Security Bank of Utah, N.A.,  
P. O. Box 3007,  
Salt Lake City, Utah 84125.

(3) Lessee:

Pennzoil Company,  
Pennzoil Place,  
P. O. Box 2967,  
Houston, Texas 77001.

Please file and record the documents referred to in this letter and cross-index them under the names of the Trustee--Indenture Trustee--Mortgagee, the Trustee--Owner Trustee--Lessor--Mortgagor, and the Lessee.

The equipment covered by the aforementioned documents consists of the following:

One hundred (100) 13,500 gallon Exterior Coiled and Insulated Tank Cars for Molten Sulfur Service (AAR Designation T; Tank Car Classification DOT 111A100W1) bearing Lessee's indentifying numbers DVLX 1001 through DVLX 1100, both inclusive.

There is also enclosed a check for \$110 payable to the Interstate Commerce Commission, representing the fee for recording the Equipment Lease and the Trust Indenture as supplemented by the Supplemental Indenture.

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,



David C. Spialter  
As Agent for Pennzoil Company

H. G. Homme, Esq., Acting Secretary,  
Interstate Commerce Commission,  
Washington, D. C. 20423

Encls.

33

BY HAND

**Interstate Commerce Commission**  
Washington, D.C. 20423

9/21/78

OFFICE OF THE SECRETARY

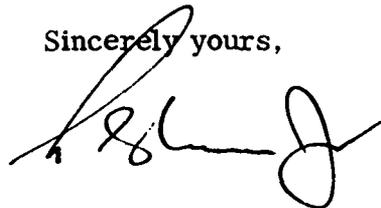
**David C. Spialter**  
**Cravath Swaine & Moore**  
**One Chase Manhattan Plaza**  
**New York, N.Y. 10005**

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 9/18/78 at 8:45am and assigned recordation number(s) 9644-A & 9644-B 9644

**The Name Duval Corporation has been Cross-Indexed under the above Nos.**

Sincerely yours,



H.G. Homme, Jr.,  
Acting Secretary

Enclosure(s)

SE-30-T  
(2/78)

**Interstate Commerce Commission**

**Washington, D.C. 20423**

**8/16/78**

**OFFICE OF THE SECRETARY**

**David C. Spialter  
Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, N.Y. 10005**

**Dear Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **8/16/78** at **1:50pm** and assigned recordation number(s) **9644, 9644-A, 9644-B**

Sincerely yours,

**H.G. Homme, Jr.,  
Acting Secretary**

**Enclosure(s)**

**SE-30-T  
(2/78)**

15-

RECORDATION NO. 9644 Filed & Recorded

AUG 16 1978 - 1 10 PM

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INTERSTATE COMMERCE COMMISSION

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EQUIPMENT LEASE

Dated as of March 21, 1978

Between

FIRST SECURITY BANK OF UTAH, N.A.  
not in its individual capacity,  
but solely as trustee under a  
Master Trust Agreement dated as of  
October 1, 1976 between it and  
Itel Capital Services Corporation,  
as Lessor

and

PENNZOIL COMPANY,  
as Lessee

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Table of Contents

<u>Section</u>	<u>Subject</u>	<u>Page</u>
Section 1	Definitions; Construction of References . . . . .	1
Section 2	Lease of Equipment . . . . .	3
Section 3	Term and Rent . . . . .	4
Section 4	Net Lease . . . . .	5
Section 5	Return of Equipment . . . . .	5
Section 6	Warranties of the Lessor . . . . .	6
Section 7	Liens . . . . .	6
Section 8	Taxes . . . . .	7
Section 9	Use, Maintenance and Operation; Identifying Marks . . . . .	7
Section 10	Inspection . . . . .	9
Section 11	Loss or Destruction; Requisition of Use . . . . .	9
Section 12	Insurance . . . . .	11
Section 13	Indemnification . . . . .	12
Section 14	Sublease . . . . .	12
Section 15	Tax Indemnification . . . . .	13
Section 16	Lease Extension . . . . .	17
Section 17	Events of Default . . . . .	17
Section 18	Remedies . . . . .	18
Section 19	Right of First Refusal . . . . .	20
Section 20	Performance of Obligations of Lessee by Lessor. . . . .	20
Section 21	Voluntary Termination. . . . .	20
Section 22	Notices. . . . .	21
Section 23	Amendments and Miscellaneous . . . . .	21

Table of Contents

EXHIBIT A  
Description of Equipment

EXHIBIT B  
Certificate of Acceptance

EXHIBIT C  
Group 1 Equipment

EXHIBIT D  
Group 1 Equipment

## EQUIPMENT LEASE

THIS EQUIPMENT LEASE, dated as of the date set forth in Exhibit C hereto (the Lease), between FIRST SECURITY BANK OF UTAH, N.A., a national banking association, not in its individual capacity, but solely as trustee (the Lessor) under a Master Trust Agreement dated as of October 1, 1976 between it and Itel Capital Services Corporation, and the entity named as "Lessee" on the signature page hereof (the Lessee).

W I T N E S S E T H :

### SECTION 1. Definitions; Construction of References.

In this Lease, unless the context otherwise requires:

(a) All references in this instrument to designated Sections and other subdivisions are to designated Sections and other subdivisions of this Lease, and the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Section or other subdivision;

(b) The terms defined in this Section 1 or elsewhere in this Lease shall have the meanings assigned to them in this Section 1 or elsewhere and include the plural as well as the singular;

(c) Except as otherwise indicated, all the agreements or instruments hereinafter defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof;

(d) The following terms shall have the following meanings for all purposes of this Lease:

(1) Appraisal shall mean a procedure whereby two independent appraisers, neither of whom shall be a manufacturer of the Item of Leased Equipment for which Appraisal is required, one chosen by the Lessee and one by the Lessor, shall mutually agree upon the amount in question. The Lessor or the Lessee, as the case may be, shall deliver a written notice to the other party appointing its appraiser within 15 days after receipt from the other party of a written notice appointing that party's appraiser. If within 15 days after appointment of the two appraisers as described above, the two appraisers are unable to agree upon the amount in question, a third independent appraiser, who shall not be a manufacturer of such Item, shall be chosen within five days thereafter by the mutual consent of such first two appraisers or, if such first two appraisers fail to agree upon the appointment of a third appraiser, such appointment shall be made by an authorized representative of the American Arbitration Association or any organization successor thereto. The decision of the

third appraiser so appointed and chosen shall be given within 10 days after the selection of such third appraiser and such decision shall be binding and conclusive on the Lessor and the Lessee. The Lessor and the Lessee shall pay the fees and expenses of the respective appraisers appointed by them and shall share equally the fees and expenses of the third appraiser, if any.

(2) Basic Rent, Supplemental Rent and Rent shall have the meanings set forth in Section 3 hereof.

(3) Beneficiary, Daily Lease Rate Factor, Rent Commencement Date, Basic Rent Dates, Basic Lease Rate Factor, Expiration Date, First Delivery Date, Final Delivery Date, Interim Rent Date, First Basic Rent Date, Last Basic Rent Date, Depreciable Life, Depreciation Method, Salvage Value, Investment Credit, Overdue Rate, Lease Extension Periods, Return of Equipment, Termination Date and Equipment Marking shall have the meanings with respect to each Group of Equipment set forth in Exhibit C hereto.

(4) Business Day shall have the meaning set forth in the Participation Agreement.

(5) Casualty Value shall have the meaning with respect to each Group of Equipment set forth in Exhibit D hereto.

(6) Certificate of Acceptance shall mean a certificate of acceptance substantially in the form of Exhibit B hereto.

(7) Closing Date shall have the meaning set forth in the Participation Agreement.

(8) Equipment, and individually an Item or Item of Equipment, shall mean the items of equipment described in Exhibit A hereto.

(9) Fair Market Value of an Item of Leased Equipment shall be determined on the basis of, and shall mean the aggregate amount which would be obtainable in, an arm's-length transaction between an informed and willing buyer or user (other than: (i) a lessee currently in possession, or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell, and in such determination costs of removal from the location of current use shall not be a deduction from such value and all alternative uses in the hands of such buyer or user, including without limitation, the further leasing of such Item of Leased Equipment, shall be taken into account in making such determination. If the Lessor and the Lessee are unable to agree upon a determination of Fair Market Value with respect to a particular Item of Leased Equipment, such Fair Market Value shall be determined in accordance with the procedure for Appraisal.

(10) Group of Equipment and Lessor's Cost shall have the meanings set forth in the Certificate of Acceptance with respect to each Item of Leased Equipment.

(11) Indenture shall mean the Trust Indenture dated as of October 1, 1976 between United States Trust Company of New York, a New York corporation, not in its individual capacity, but solely as trustee thereunder (the Trustee), and the Lessor, as in effect on the date hereof.

(12) Leased Equipment, and individually an Item of Leased Equipment, shall have the meanings set forth in Section 2 hereof.

(13) Notes shall mean those promissory notes defined as Notes in the Participation Agreement issued in connection with the purchase of the Leased Equipment.

(14) Participation Agreement shall mean the agreement, dated as of the date hereof, among the Lessee, the Lessor, the Trustee, each Beneficiary and each entity named therein as Interim Lender or Long-Term Lender.

(15) Purchase Documents shall mean those documents defined as purchase documents in the Participation Agreement.

(16) Supplement shall mean each supplement to the Indenture creating a separate series of the Notes.

SECTION 2. Lease of Equipment.

Subject to the terms and conditions of this Lease, the Lessor hereby agrees to lease to the Lessee and the Lessee hereby agrees to lease from the Lessor such Items of Equipment as shall be described in one or more Certificates of Acceptance executed and delivered on behalf of the Lessor with respect thereto and as shall have been delivered and accepted on or after the First Delivery Date but on or before the Final Delivery Date (Leased Equipment, and individually an Item of Leased Equipment). Subject to the provisions of the Participation Agreement, upon delivery of each Item of Equipment to the Lessor, the Lessee will cause an authorized representative of the Lessee to inspect the same and, if such Item of Equipment is found to be in good order, to accept such Item of Equipment and to execute and deliver a Certificate of Acceptance with respect thereto, whereupon, but also subject to the provisions of the Participation Agreement, such Item of Equipment shall be deemed to have been delivered to and accepted by the Lessee and shall be subject to the terms and conditions of this Lease.

SECTION 3. Term and Rent.

(a) The term of this Lease as to each Item of Leased Equipment included in a Group of Equipment shall begin on its date of acceptance, as set forth in the Certificate of Acceptance executed and delivered with respect thereto, and shall end on the Expiration Date with respect to such Group of Equipment, unless this Lease shall have been terminated, or the term of this Lease with respect to such Group of Equipment shall have been extended, by the terms hereof.

(b) The Lessee shall pay to the Lessor as Basic Rent (herein referred to as Basic Rent) for each Item of Leased Equipment subject to this Lease, the following:

(1) on the Interim Rent Date, an amount equal to the Daily Lease Rate Factor, if any, multiplied by the Lessor's Cost of such Item, for each day elapsed from and including the Rent Commencement Date with respect to such Item to but excluding the Interim Rent Date;

(2) on the First Basic Rent Date, an amount equal to the Basic Lease Rate Factor, multiplied by the Lessor's Cost of such Item; and

(3) on each Basic Rent Date thereafter to and including the Last Basic Rent Date, an amount equal to the Basic Lease Rate Factor, multiplied by the Lessor's Cost of such Item.

(c) The Lessee shall pay to the Lessor the following amounts (herein referred to as Supplemental Rent and, together with all Basic Rent, as Rent):

(1) on demand, any amount payable hereunder (other than Basic Rent and Casualty Value) which the Lessee assumes the obligation to pay, or agrees to pay, under this Lease to the Lessor or others;

(2) on the date provided herein, any amount payable hereunder as Casualty Value; and

(3) to the extent permitted by applicable law, interest (computed on the basis of a 360-day year of twelve 30-day months) at the Overdue Rate on any payment of Basic Rent or Casualty Value not paid when due for any period for which the same shall be overdue and on any payment of Supplemental Rent (including, without limitation, interest payable under this clause (3), but excluding payments of Casualty Value) not paid when demanded hereunder for the period from the date of such demand until the date on which the same shall be paid.

(d) Subject to the provisions of the Participation Agreement, all payments of Rent hereunder shall be made so that the Lessor shall have immediately available funds no later than 1:00 p.m. Eastern Standard Time on the date payable hereunder, and shall be paid to the Lessor at its address set forth herein or at such other address as the Lessor may direct by notice in writing to the Lessee.

#### SECTION 4. Net Lease.

This Lease is a net lease and the Lessee acknowledges and agrees that the Lessee's obligation to pay all Rent hereunder, and the rights of the Lessor in and to such Rent, shall be absolute and unconditional and shall not be subject to any abatement, reduction, set-off, defense, counterclaim or recoupment (Abatements), for any reason whatsoever, including, without limitation, Abatements due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise, or against the manufacturer or seller of any Item of Leased Equipment. Except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the respective obligations of the Lessor or the Lessee be affected, by reason of any defect in or damage to, or any loss or destruction of, the Leased Equipment or any Item thereof from whatsoever cause, or the interference with the use thereof by any private person, corporation or governmental authority, or the invalidity or unenforceability or lack of due authorization of this Lease or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law or regulation to the contrary notwithstanding, it being the express intention of the Lessor and the Lessee that all Rent payable by the Lessee hereunder shall be, and continue to be, payable in all events unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

#### SECTION 5. Return of Equipment.

(a) Upon the expiration or termination of this Lease with respect to a Group of Equipment, the Lessee, at its own expense, will return the Items of Leased Equipment then subject to this Lease which are included in such Group of Equipment to the Lessor in the condition in which such Leased Equipment is required to be maintained pursuant to Section 9 hereof and, except as otherwise provided in the succeeding paragraph (b), pursuant to the instructions set forth under the heading Return of Equipment in Exhibit C to this Lease. Such Leased Equipment, upon redelivery pursuant hereto, shall be free and clear of all mortgages, liens, security interests, charges, encumbrances and claims (Liens), other than Liens (a) arising pursuant to the express terms of the Indenture, (b) resulting from voluntary action by the Lessor without the prior approval of the Lessee and not taken as the result of any default by the Lessee, or (c) resulting from claims against the Lessor not related to the Lessor's ownership of the Leased Equipment (Liens described in clauses (a), (b) and (c) above being herein referred to as Lessor's Liens).

(b) Upon the termination of this Lease in accordance with Section 18 hereof, the Lessee, at its own cost, expense and risk shall (a) forthwith and in the usual manner (including, without limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Item has been interchanged, to return such Item so interchanged) place the Leased Equipment upon such storage tracks as the Lessor may reasonably designate, (b) permit the Lessor to store the Leased Equipment on such tracks at the risk of the Lessee without charge for insurance, rent or storage until the Leased Equipment shall have been sold, leased or otherwise disposed of by the Lessor and (c) transport the Leased Equipment to any connecting carrier for shipment, all as directed by the Lessor. During any such storage period, the Lessee's obligations under Sections 9, 10 and 12 shall remain in full force and effect notwithstanding the termination of this Lease.

SECTION 6. Warranties of the Lessor.

(a) The Lessor warrants that during the term of this Lease, if no Event of Default has occurred, the Lessee's use of the Leased Equipment shall not be interrupted by the Lessor or anyone claiming solely through or under the Lessor.

(b) The warranties set forth in paragraph (a) of this Section are in lieu of all other warranties of the Lessor, whether written, oral or implied with respect to this Lease or the Leased Equipment; and the Lessor shall not be deemed to have made, and the LESSOR HEREBY DISCLAIMS ANY OTHER REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE LEASED EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE LEASED EQUIPMENT OR CONFORMITY OF THE LEASED EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER OR ORDERS RELATING THERETO, NOR SHALL THE LESSOR BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT), but the Lessor authorizes the Lessee, at the Lessee's expense, to assert for the Lessor's account, during the term of this Lease, so long as no Event of Default shall have occurred hereunder and be continuing, all of the Lessor's rights under any applicable manufacturer's or seller's warranty and the Lessor agrees to cooperate with the Lessee in asserting such rights; provided, however, that the Lessee shall indemnify and shall hold the Lessor harmless from and against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by the Lessor in connection with, as a result of, or incidental to, any action by the Lessee pursuant to the above authorization. Any amount received by the Lessee as payment under any such warranty shall be applied to restore the Leased Equipment to the condition required by Section 9 hereof, with the balance of such amount, if any, less reasonable expenses of collection, to be paid over to the Lessor.

SECTION 7. Liens.

The Lessee will not directly or indirectly create, incur, assume or suffer to exist any Liens on or with respect to the Leased Equipment,

the Lessor's title thereto or any interest therein (and the Lessee will promptly, at its own expense, take such action as may be necessary duly to discharge any such Lien), except (a) the respective rights of the Lessor and the Lessee as herein provided, (b) Lessor's Liens, (c) Liens for taxes either not yet due or being contested in good faith and by appropriate proceedings, if counsel for the Lessor shall have reasonably determined that the nonpayment of any such tax or the contest of any such payment in such proceedings do not, in the opinion of such counsel, adversely affect the title, property, or rights of the Lessor, (d) inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like Liens arising in the ordinary course of business of the Lessee and not delinquent, and (e) Liens granted by the Lessor to any assignee or security assignee of the Lessor.

SECTION 8. Taxes.

The Lessee agrees to pay and to indemnify the Lessor for, and hold the Lessor harmless from and against, all income, franchise, sales, use, personal property, ad valorem, value added, leasing, leasing use, stamp or other taxes, levies, imposts, duties, charges, or withholdings of any nature, together with any penalties, fines or interest thereon (Impositions), arising out of the transactions contemplated by this Lease and imposed against the Lessor, the Lessee or the Leased Equipment by any federal, state, local or foreign government or taxing authority upon or with respect to the Leased Equipment or upon the sale, purchase, ownership, delivery, leasing, possession, use, operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon or with respect to this Lease (excluding, however, Impositions on and measured solely by the net income of the Lessor) unless, and only to the extent that, the Lessee shall have given to the Lessor written notice of any such Imposition, which notice shall state that such Imposition is being contested by the Lessee in good faith and by appropriate proceedings and counsel for the Lessor shall have reasonably determined that the nonpayment thereof or the contest thereof in such proceedings does not, in the opinion of such counsel, adversely affect the title, property or rights of the Lessor; provided, however, that if no Event of Default shall have occurred and be continuing hereunder, the Lessee shall not be required to pay and to indemnify the Lessor for any taxes imposed solely as a result of a transfer by the Lessor of its interest in this Lease. If a claim is made against the Lessee or the Lessor for any Imposition, the party receiving notice of such claim shall promptly notify the other. In case any report or return is required to be made with respect to any obligation of the Lessee under this Section 8 or arising out of this Section 8, the Lessee will either (after notice to the Lessor) make such report or return in such manner as will show the ownership of the Leased Equipment in the Lessor and send a copy of such report or return to the Lessor or will notify the Lessor of such requirement and make such report or return in such manner as shall be satisfactory to the Lessor. The Lessor agrees to cooperate fully with the Lessee in the preparation of any such report or return.

SECTION 9. Use, Maintenance and Operation; Identifying Marks.

(a) The Lessee agrees that the Leased Equipment will be used or is intended for use, in connection with interstate commerce and will be used in compliance with any and all statutes, laws, ordinances and regulations of any governmental agency applicable to the use of the Leased Equipment, and, subject to the provisions of Section 14 hereof, will at all times be used solely in the conduct of its business and be and remain in the possession and control of the Lessee within the geographic limits of the continental United States; provided, however, that the Lessee may use or permit the use of Items of Leased Equipment having an aggregate Lessor's Cost not in excess of 15% of the aggregate Lessor's Cost of all Leased Equipment then subject to this Lease, outside the geographic limits of the continental United States in interchange in the normal course of its business. Throughout the term of this Lease, the possession, use and maintenance of the Leased Equipment shall be at the sole risk and expense of the Lessee.

(b) The Lessee shall use the Items of Leased Equipment only in the manner for which they were designed and intended and will, at its own cost and expense, repair and maintain each Item of Leased Equipment so as to keep it in as good condition as when delivered to the Lessee hereunder, ordinary wear and tear excepted, eligible for interchange service and suitable for use under load pursuant to any and all federal or AAR requirements; provided, however, that for all purposes under this Lease ordinary wear and tear shall not be deemed to include corrosion of or damage to the Leased Equipment caused or contributed to by sulphuric acid or any other chemical agent, if such corrosion or damage materially impairs the use or marketability of the Leased Equipment.

(c) Except as set forth in paragraph (d) below, the Lessee shall be entitled from time to time during the term of this Lease, to acquire and install on any Item of Leased Equipment at the Lessee's expense, such additional features or options as may be available at such time with respect to such Item, and such additional features and options shall not be considered accessions to such Item and title thereto shall remain in the Lessee except as provided in the last sentence of this paragraph (c). Such additional features or options shall be removed by the Lessee before such Item is returned to the Lessor, and the Lessee shall repair all damage to such Item resulting from such installation and removal so as to restore such Item to the condition in which it existed prior to the installation of such additional features or options. Any such additional features and options not so removed shall be considered accessions to such Item and shall become the property of the Lessor.

(d) The Lessee will not, without the prior written consent of the Lessor, which consent shall not be unreasonably withheld and which consent shall not be withheld if such accessory, equipment or device is required by applicable law, governmental regulation or AAR requirement, affix or install any accessory, equipment or device on any Item of Leased

Equipment leased hereunder which will either impair the originally intended function or use of any such Item or constitute an improvement or addition to such Item of Leased Equipment which is not, within the meaning of any law, regulation or procedure then in effect, readily removable without causing material damage to such Item of Leased Equipment. Only such accessories, equipment and devices which are not readily removable without material damage shall upon attachment or affixation become the property of the Lessor and thereupon all such accessories, equipment and devices shall become a part of the Leased Equipment leased hereunder. The replaced parts shall no longer be the property of the Lessor.

(e) The Lessee agrees, at its own cost and expense, to (1) cause each Item of Leased Equipment to be kept numbered with the identification or serial number therefor as specified in the Certificate of Acceptance therefor and (2) maintain the Equipment Marking on each Item of Leased Equipment and such other markings as from time to time may be required by law or otherwise deemed necessary by the Lessor in order to protect the title of the Lessor to such Item of Equipment, the rights of the Lessor under this Lease and the Lien granted by the Lessor in financing the Lessor's Cost of the Leased Equipment. The Lessee will not place any Item of Leased Equipment in operation or exercise any control or dominion over the same until such Equipment Marking has been placed thereon. The Lessee will replace promptly any such Equipment Marking which may be removed, defaced or destroyed.

SECTION 10. Inspection.

The Lessor shall have the right, but not the duty, to inspect the Leased Equipment. Upon the request of the Lessor, the Lessee shall, at any reasonable time, make the Leased Equipment, and the Lessee's records pertaining to the Leased Equipment, available to the Lessor for inspection.

SECTION 11. Loss or Destruction; Requisition of Use.

(a) In the event that any Item of Leased Equipment shall be or become damaged, worn out, destroyed, lost, stolen, or permanently rendered unfit for use for any reason whatsoever, or title thereto shall be requisitioned or otherwise taken by any governmental authority under power of eminent domain or otherwise (Requisition of Use), or any Item of Leased Equipment is returned to the manufacturer or seller thereof pursuant to the patent indemnity provisions of the Purchase Documents, such fact shall promptly be reported by the Lessee to the Lessor.

(b) The Lessee shall determine, within 15 days after the date of occurrence of any such damage or wearing out, whether such Item of Leased Equipment can be repaired or replaced.

(c) In the event the Lessee determines that such Item cannot be repaired or replaced or in the event of such destruction, loss, theft, unfitness for use, Requisition of Use for a stated period which exceeds the

term of this Lease, or permanent return of such Item to the manufacturer or seller thereof without replacement thereof (any of such occurrences being referred to as an Event of Loss), the Lessee shall promptly notify the Lessor of such Event of Loss. On the Basic Rent Date next following the date of such Event of Loss, the Lessee shall pay to the Lessor the Casualty Value of such Item, determined as of such Basic Rent Date, together with any Rent then due, whereupon the Lessee's obligation to pay further Basic Rent for such Item shall cease, but the Lessee's obligation to pay Supplemental Rent, if any, for such Item, and to pay Rent for all other Items of Leased Equipment shall remain unchanged. In the event the Lessee determines that such Item can be repaired or replaced, the Lessee shall continue to make all payments of Basic Rent due with respect to such Item and shall (1) cause such Item to be repaired or replaced within 90 days after the occurrence of such damage or wearing out, and (2) in the event of replacement, take such action as may be required under and pursuant to the Indenture to perfect, protect and preserve any security interests created by the Lessor under and pursuant to the Indenture; provided, however, that if the Lessee shall, within such 90-day period, have commenced the repair or replacement of such Item and be diligently pursuing such repair or replacement, but is prevented from completing such repair, or replacement within such 90-day period due to causes beyond the Lessee's control, then the time for repair or replacement shall be extended by the number of days necessary to complete such repair or replacement up to a maximum of 90 additional days, and further provided, that if the Lessee shall fail to repair or replace such Item within such repair or replacement period (including any extension thereof) an Event of Loss shall be deemed to have occurred and the Lessee shall, on the Basic Rent Date next following the end of such repair or replacement period, pay to the Lessor the Casualty Value of such Item, determined as of such Basic Rent Date, together with any Rent then due. If at such time no more Basic Rent is or will become payable under this Lease, the Casualty Value shall be paid within 30 days following, as appropriate, the Event of Loss or the repair or replacement period. Notwithstanding the foregoing, the Lessee, pursuant to the provisions of Section 15 hereof, shall still be required to indemnify the Lessor for any Loss, as defined in Section 15 hereof, due to the Lessee's act of replacing an Item of Leased Equipment authorized hereby. Upon making such Casualty Value payment in respect of such Item and all Rent due and owing with respect thereto, the Lessee's obligation to pay further Basic Rent for such Item shall cease, but the Lessee's obligation to pay Supplemental Rent, if any, for such Item, and to pay Rent for all other Items of Leased Equipment shall remain unchanged. In the event the Lessee determines that an Item of Leased Equipment cannot be repaired or replaced, and except in the case of loss, theft, destruction, or permanent return to the manufacturer or seller, the Lessor shall be entitled to recover possession of such Item, unless possession of such Item is required to be delivered to an insurance carrier (other than the Lessee) in order to settle an insurance claim arising out of the Event of Loss. The Lessor shall be entitled to retain any salvage value collected by such insurance

carrier in excess of the amount paid to the Lessor by said insurance carrier. The Lessor shall be under no duty to the Lessee to pursue any claim against any governmental authority, but the Lessee may at its own cost and expense pursue the same on behalf of the Lessor in such manner as may be satisfactory to the Lessor. Any replacement Item installed by the Lessee in accordance with the provisions of this Section 11(c) shall be in as good operating condition as, and shall have a value and utility at least equal to, the Item replaced, assuming the Item replaced was in the condition and state of repair required to be maintained by the terms hereof. In the event the Lessee determines that an Item of Leased Equipment can be repaired or replaced, the Lessee shall be entitled to possession of any scrap resulting from repairs or the Item which is replaced.

(d) Following payment of the Casualty Value of an Item of Leased Equipment in accordance with the provisions of Section 11(c), the Lessee shall, as agent for the Lessor, dispose of such Item as soon as it is able to do so for the best price obtainable. Any such disposition shall be on an "as is", "where is" basis without representation or warranty, express or implied. As to each separate Item so disposed of, the Lessee may, after paying the Lessor the amounts specified in Section 11(c), retain all amounts of such price, plus damages received by the Lessee by reason of such Event of Loss, up to the Casualty Value and the Lessee's reasonable costs and expenses of disposition attributable thereto, and shall remit the excess, if any, to the Lessor. As to each Item of Leased Equipment returned to the manufacturer or seller thereof in the manner described in Section 11(a) and not replaced or modified by the manufacturer or seller pursuant to the patent indemnity provisions of the Purchase Documents, the Lessor agrees that the Lessee shall receive and retain all amounts payable to the Lessor by the manufacturer or seller for the return of such Item, up to the Casualty Value paid by the Lessee hereunder, and any excess shall be paid over to or retained by the Lessor. As to each Item of Leased Equipment modified and each replacement Item installed by the manufacturer or seller pursuant to the patent indemnity provisions of the Purchase Documents, the Lessor and the Lessee agree that such modified Item or replacement Item shall be delivered to the Lessee and shall, without any further act of the Lessor or the Lessee, be considered an Item for all purposes of this Lease.

(e) Except as hereinabove in this Section 11 provided, the Lessee shall bear the risk of loss and shall not be released from its obligations hereunder in the event of any damage or Event of Loss to any Item of Leased Equipment after delivery to and acceptance by the Lessee hereunder.

(f) In the case of a Requisition of Use of any Item of Leased Equipment for an indefinite period or for a stated period which does not exceed the term of this Lease, such Requisition of Use shall not terminate this Lease with respect to such Item, and each and every obligation of the Lessee with respect thereto shall remain in full force and effect. So long as no Event of Default shall have occurred and be continuing under this Lease, the Lessee shall be entitled to all sums received by reason of any such Requisition of Use, up to the amount of the Basic Rent paid by the Lessee during the period of such Requisition of Use plus any out-of-pocket costs or expenses incurred in maintaining or insuring such

Item, in accordance with the terms hereof, during the period of such Requisition of Use.

SECTION 12. Insurance.

At its own expense, the Lessee will cause to be carried and maintained public liability insurance, in each case in amounts and against risks customarily insured against by the Lessee on similar equipment owned by it, but in no event shall the deductible on such insurance exceed \$2,000,000. At its own expense, the Lessee will either (i) cause to be carried and maintained casualty insurance with respect to each Item of Leased Equipment, in amounts, with deductibles, and against risks customarily insured against by the Lessee on similar equipment owned by it, or (ii), if a substantial amount of similar equipment owned by it is similarly treated, self-insure each Item of Leased Equipment by setting aside adequate reserves against loss from such risks otherwise customarily insured against by the Lessee. Any policies with respect to such insurance shall be with an insurance carrier acceptable to the Lessor and, if requested by the Lessor, shall name the Lessor, the Trustee (as assignee and secured party) and the Lessee as assureds and loss payees, as their interests may appear, and shall provide for at least 30 days' prior written notice by the insurance carrier to the Lessor in the event of cancellation or expiration. The Lessee shall, upon request of the Lessor, furnish appropriate evidence of such insurance. Provided that (i) no Event of Default has occurred and is continuing and (ii) the Lessee has paid any Rent then due and owing under this Lease, the Lessor shall promptly, but in no event in less than 10 Business Days following receipt thereof, make available or cause to be made available to the Lessee any insurance proceeds then payable to the Lessee hereunder.

SECTION 13. Indemnification.

The Lessee agrees to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless the Lessor from and against any and all liabilities, obligations, losses, damages, penalties, claims (including, without limitation, claims involving strict or absolute liability), actions, suits, costs, expenses and disbursements (including, without limitation, legal fees and expenses) of any kind and nature whatsoever (Claims) which may be imposed on, incurred or asserted against the Lessor, whether or not the Lessor shall also be indemnified as to any such Claim by any other person, in any way relating to or arising out of this Lease or any document contemplated hereby or the performance or enforcement of any of the terms hereof or thereof, or in any way relating to or arising out of the manufacture, purchase, acceptance, rejection, ownership, delivery, lease, sublease, possession, use, operation, maintenance, condition, registration, sale, return, storage or disposition of any Item of Leased Equipment or any accident in connection therewith (including, without limitation, latent and other defects, whether or not discoverable and any Claim for patent, trademark or copyright infringement); provided, however, that the Lessee shall not be required to indemnify the Lessor for

(a) any Claim in respect of any Item of Leased Equipment arising from acts or events which occur after possession of such Item of Leased Equipment has been redelivered to the Lessor, (b) any Claim resulting from acts which would constitute the wilful misconduct or gross negligence of the Lessor, or (c) any Claim resulting solely from the Lessor's miscalculation of its yields at the inception of this Lease. To the extent that the Lessor in fact receives indemnification payments from the Lessee under the indemnification provisions of this Section 13, the Lessee shall be subrogated, to the extent of such indemnity paid, to the Lessor's rights with respect to the transaction or event requiring or giving rise to such indemnity. The Lessee agrees that the Lessor shall not be liable to the Lessee for any Claim caused directly or indirectly by the inadequacy of any Item of Leased Equipment for any purpose or any deficiency or defect therein or the use or maintenance thereof or any repairs, servicing or adjustments thereto or any delay in providing or failure to provide any thereof or any interruption or loss of service or use thereof or any loss of business, all of which shall be the risk and responsibility of the Lessee. The rights and indemnities of the Lessor hereunder are expressly made for the benefit of, and shall be enforceable by, the Lessor notwithstanding the fact that the Lessor is either no longer a party to this Lease, or was not a party to this Lease at its outset.

SECTION 14. Sublease.

The Lessee will not, without the prior written consent of the Lessor, which consent will not be unreasonably withheld or unreasonably delayed, sublet or otherwise relinquish possession of any of the Leased Equipment (except by way of interchange in the normal course of its business) or assign any of its rights hereunder; provided, however, that without such consent, the Lessee, so long as no event which, with the giving of notice or lapse of time or both, would become an Event of Default shall have occurred hereunder and be continuing, may sublease any Item of Leased Equipment (i), upon written notice to the Lessor, to any member of the consolidated group of companies of which Lessee is a member and (ii) upon prior written notice to the Lessor, to any person for a period or periods not in excess of an aggregate of 90 days in any successive 12 month period. No sublease shall be permitted hereunder unless (a) the rights of the sublessee thereunder are expressly subject and subordinate to the rights of the Lessor and any security assignee of the Lessor, and (b) except as otherwise provided in the proviso to the first sentence of Section 9(a) hereof, the Items of Leased Equipment to be subleased shall be used within the geographic limits of the continental United States. No sublease, other relinquishment of the possession of any of the Leased Equipment, or assignment by the Lessee of any of its rights hereunder shall in any way discharge or diminish any of the Lessee's obligations to the Lessor hereunder.

SECTION 15. Tax Indemnification.

(a) This Lease has been entered into on the basis that the Lessor shall be entitled to such deductions, credits and other benefits

with respect to each Item of Leased Equipment as are provided to an owner of property including, without limitation:

(i) unless otherwise provided in Exhibit C hereto, the investment tax credit (Investment Credit) allowed by section 38 and related sections of the Internal Revenue Code of 1954, as amended (Code), in an amount equal to the percentage set forth in Exhibit C hereto of the Lessor's Cost of each Item of Leased Equipment;

(ii) the deduction for accelerated depreciation (Depreciation Deduction) on each Item of Leased Equipment under various sections of the Code based upon the Depreciable Life, Depreciation Method and Salvage Value set forth in Exhibit C hereto; and

(iii) the deduction under section 163 of the Code (Interest Deduction) in the full amount of any interest paid or accrued by the Lessor in accordance with the Lessor's method of accounting for tax purposes with respect to any indebtedness incurred by the Lessor in financing its purchase of each Item of Leased Equipment.

(b) If, for any reason whatsoever other than the events specified in paragraph (c) of this Section 15, the Lessor shall lose, shall not have or shall lose the right to claim, or if there shall be disallowed or recaptured with respect to the Lessor, all or any portion of the Investment Credit, the Interest Deduction or the Depreciation Deduction as is provided to an owner of property with respect to any Item of Leased Equipment or if for Federal income tax purposes any amount includible in the gross income of, or any deductions allowable to, the Lessor with respect to the Items is treated as derived from or allocable to sources outside the United States (Loss), then the Basic Lease Rate Factor applicable to such Item of Leased Equipment shall, on and after the next succeeding Basic Rent Date, after written notice to the Lessee by the Lessor that a Loss has occurred, be increased by such amount for such Item as will cause the Lessor's net return over the term of the Lease in respect of such Item to equal the net return that would have been available if the Lessor had been entitled to the utilization of all of the Investment Credit, the Interest Deduction and the Depreciation Deduction with respect to such Item (computed on the same assumptions utilized by the Lessor in originally evaluating its after-tax economic and accounting yields and cash flows resulting from this Lease), and the Lessee shall forthwith pay to the Lessor the amount which, after deduction of all income tax liabilities payable by the Lessor in respect of the receipt of such amount, shall be equal to the amount of any interest and penalties which may be assessed by the United States or any State against the Lessor attributable to the Loss. If any indemnity amount payable herein becomes payable after the Last Basic Rent Date, then the total amount of such indemnity payment shall be payable in a lump sum within thirty days of the Lessor's reasonable request therefor. For purposes of this Section 15, a Loss shall occur upon the earliest of (1) a determination (as defined in Section 1313 (a) of the Code) of additional tax liability to reflect such Loss, (2) the payment by

the Lessor to the Internal Revenue Service of the tax increase resulting from such Loss (or a reduction in the amount of any refund which the Lessor would have been entitled to receive but for the Loss), without any such determination following receipt of an opinion by mutually acceptable independent tax counsel to the effect that there is no reasonable basis to contest any assertion of additional tax (or reduction in a claim for refund) by the Internal Revenue Service, or (3) payment of a deficiency pursuant to an election by the Lessor under clause (b) of paragraph (d) of this Section 15 (hereafter called the Refund Option).

(c) With respect to any Item of Leased Equipment, the Lessor shall be responsible for, and shall not be entitled to a payment under this Section 15 on account of, any Loss due to one or more of the following events: (i) a disqualifying disposition due to the sale of such Item of Leased Equipment or the lease thereof by the Lessor prior to any default by the Lessee, or (ii) a failure of the Lessor to timely or properly claim the Investment Credit, Interest Deduction or Depreciation Deduction for such Item of Leased Equipment in the tax return of the Lessor, other than any such failure by the Lessor following the receipt of an opinion from a mutually acceptable independent tax counsel to the effect that there is not a reasonable basis for making such claim without the Lessor incurring a risk of imposition of a civil or criminal penalty, or (iii) a disqualifying change in the nature of the Lessor's business or the liquidation thereof, or (iv) a foreclosure by any person holding through the Lessor of a lien on such Item of Leased Equipment, which foreclosure results solely from an act of the Lessor or failure to act by the Lessor, or (v) any event which by the terms of this Lease requires payment by the Lessee of the Casualty Value of such Item, if such Casualty Value is thereafter actually paid by the Lessee, to the extent that such payment reimburses the Lessor for amounts otherwise payable by the Lessee pursuant to this Section 15, or (vi) the failure of the Lessor to have sufficient liability for tax against which to apply such Investment Credit or taxable income against which to apply such Depreciation Deduction or Interest Deduction.

(d) Upon receipt by the Lessor of a written notification from the Internal Revenue Service of a proposed disallowance or adjustment for which an amount may be payable by the Lessee in accordance with this Section 15 (hereinafter called a Claim), the Lessor shall promptly notify the Lessee of said Claim (which notice shall include all relevant information relating to such Claim which may be particularly within the knowledge of the Lessor). The Lessor shall contest such Claim provided the following conditions are satisfied:

(i) The Lessee requests the Lessor to contest such Claim within 30 days after the Lessor has so notified the Lessee and within 60 days thereafter independent tax counsel selected by the Lessee and acceptable to the Beneficiary (hereinafter called Independent Tax Counsel) renders a written opinion that there is a reasonable basis to contest such Claim; and

(ii) The Lessee agrees to pay on demand all out-of-pocket reasonable expenses, including, without limitation, the fees and disbursements of such Independent Tax Counsel, accountants and investigators, paid or incurred by the Lessor in connection with contesting such Claim.

Upon satisfaction of the conditions described in subparagraphs (i) and (ii) immediately above, the Lessor shall be obligated to contest such Claim in an appropriate judicial forum. In fulfilling its obligation to contest a Claim in a judicial forum, the Lessor shall have the right, in its sole discretion, to elect either (a) to petition the Tax Court of the United States for a redetermination of the deficiency proposed to be assessed by the Internal Revenue Service as a result of such Claim or (b) to pay the deficiency and institute an action in a court of competent jurisdiction for a refund of taxes paid. Pursuant to its obligation to contest such Claim, the Lessor, at its sole option, may choose to forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such Claim (other than such administrative appeals, proceedings, hearings or conferences as may be a condition precedent to filing and pursuing a claim for a redetermination of deficiency, or for a refund of taxes in an appropriate judicial forum, as the case may be). The Lessor will not compromise or settle any Claim indemnified herein without the consent of the Lessee, which consent shall not be unreasonably withheld; provided, however, that such consent shall be deemed given if such proposed compromise or settlement shall not be disapproved by the Lessee within 30 days after written notice thereof from the Lessor.

If, the Lessor shall have elected the Refund Option and if after actual receipt by the Lessor of an amount paid by the Lessee and attributable to a Loss, the extent of such Loss shall be established by the final adjudication thereof or a settlement with the consent of the Lessee, then on the next succeeding Basic Rent Date (or, if there is no succeeding Basic Rent Date, within 30 days), after such final adjudication or settlement, as the case may be, the Lessor shall repay to the Lessee all or a portion of the amounts or amounts theretofore received by the Lessor and paid by the Lessee with respect to such Loss which (by reason of such adjudication or settlement) the Lessor did not ultimately incur less, in either case, unpaid expenses of the contest. In addition to the foregoing, in the event of any final adjudication or settlement described in the preceding sentence, the increase in subsequent payments of Basic Rent in respect of the Item by reason of such Loss shall, commencing on the next succeeding Basic Rent Date after such final adjudication or settlement, as the case may be, be reduced to the extent such increase related to the portion of such Loss the Lessor did not ultimately incur. Notwithstanding the foregoing, the Lessor shall not be required to make any payment hereunder so long as an Event of Default (or an event which would with the passage of time, or notice, or both, would constitute an Event of Default) shall have occurred and be continuing hereunder.

(e) In the event and to the extent that the cost of any improvement or addition to any Item of Leased Equipment made by the Lessee which cannot be readily removed without causing material damage to such Item (any such improvement or addition being herein referred to as a Capital Expenditure) is required to be included in the gross income of the Lessor for federal income tax purposes, then the Lessee shall pay to the Lessor on each Basic Rent Date thereafter, commencing with the first Basic Rent Date following the date on which the Lessee is required to furnish written notice of such inclusion to the Lessor pursuant to the succeeding paragraph (f), such amount which (after deduction of all taxes required to be paid by the Lessor on receipt thereof under the laws of the United States or any political subdivision thereof), when taken together with the amount of Basic Rent due on each such date will cause the Lessor's net return over the term of the Lease in respect of such Item to equal the net return that would have been available if the cost of such Capital Expenditure had not been includable in the Lessor's gross income, and the Casualty Values payable with respect to such Item shall be adjusted in amounts calculated in a similar such manner by the Lessor.

(f) For purposes of the preceding paragraph (e), the cost of any Capital Expenditure made by the Lessee shall be deemed to be "required to be included in the gross income of the Lessor for federal income tax purposes", if such inclusion arises from (1) a determination (as defined in Section 1313 (a) of the Code) of additional tax liability to reflect such Loss, (2) the payment by the Lessor to the Internal Revenue Service of the tax increase resulting from such Loss (or a reduction in the amount of any refund which the Lessor would have been entitled to receive but for the Loss), without any such determination following receipt of an opinion by mutually acceptable independent tax counsel to the effect that there is no reasonable basis to contest any assertion of additional tax (or reduction in a claim for refund) by the Internal Revenue Service, or (3) payment of the Refund Option. The Lessee shall be entitled to receive written notice of any proposed inclusion of such gross income and to contest such inclusion on the same terms as set forth in paragraph (d) of this Section 15. The Lessee shall, within 30 days after December 31 (or, if the Lessee's fiscal year end occurs on some other date, within 30 days of such other date) in each year in which the Lessee has made any Capital Expenditure give written notice thereof to the Lessor describing such Capital Expenditure in reasonable detail and specifying the cost thereof.

(g) All of the Lessor's rights and privileges arising from the indemnities contained in this Section 15 shall survive the expiration or other termination of this Lease with respect to any or all Items of Leased Equipment and such indemnities are expressly made for the benefit of and shall be enforceable by the Lessor, its successors and assigns.

SECTION 16. Lease Extension.

(a) Provided that this Lease has not been terminated and provided that no Event of Default has occurred and is continuing hereunder,

the Lessee shall have the option to extend the term of this Lease with respect to all, but not less than all, Items of Leased Equipment at the Expiration Date or any renewal thereof for a maximum of three successive periods of two years each and for a rental equal to the Fair Market Rental Value thereof determined as of the date such renewal term commences (the Option Commencement Date).

(b) Not less than 180 days prior to the Expiration Date, or any renewal thereof, the Lessee may indicate, by written notice to the Lessor, the Lessee's interest in exercising the Lessee's lease extension options described in subsection (a) above, which notice shall set forth the Lessee's estimate of the Fair Market Rental Value of such Equipment as of the Option Commencement Date. If, on or before a date 125 days prior to such Option Commencement Date, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value of such Equipment, such Fair Market Rental Value shall be determined in accordance with the procedure for Appraisal. After a determination of the Fair Market Rental Value of such Equipment has been made in accordance with the procedure described above, the Lessee may exercise its option to extend the term of this Lease with respect to said Equipment for the Fair Market Rental Value thereof by delivering written notice of such exercise to the Lessor not less than 60 days prior to the Option Commencement Date; provided, however, that in any event the Lessee shall have 15 days from the date such Fair Market Rental Value has been determined within which it may exercise the foregoing option.

(c) Fair Market Rental Value shall be determined on the basis of and shall mean the aggregate amount which would be obtainable in an arm's-length transaction between an informed and willing lessee and an informed and willing lessor under no compulsion to lease.

SECTION 17. Events of Default.

The term Event of Default, wherever used herein, shall mean any of the following events under the Lease (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) The Lessee shall fail to make any payment of Rent within 10 days after the same shall become due; or

(b) The Lessee shall fail to perform or observe any other covenant, condition, or agreement to be performed or observed by it under this Lease or any agreement, document or certificate delivered by the Lessee in connection herewith, and such failure shall continue for 20 days after written notice thereof from the Lessor to the Lessee; or

(c) Any representation or warranty made by the Lessee in this Lease or the Participation Agreement or in any document or certificate furnished to the Lessor in connection herewith shall prove to have been incorrect in any material respect when any such representation or warranty was made or given; or

(d) A petition in bankruptcy shall be filed by the Lessee, or the Lessee shall make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver; or a trustee or a receiver shall be appointed for the Lessee, with respect to the interest of the Lessee in any Item of Leased Equipment or for a substantial part of its property without its consent and shall not be dismissed within a period of 60 days; or bankruptcy, reorganization or insolvency proceedings shall be instituted against the Lessee and shall not be dismissed for a period of 60 days; or

(e) The Lessee shall be in default under any material obligation for the payment of borrowed money or for the deferred purchase price of, or for the payment of any rent under any lease agreement covering, material real or personal property, and the applicable grace period with respect thereto shall have expired and the obligations shall not be contested in good faith; or

(f) The Lessee shall attempt to remove, sell, transfer, encumber, part with possession of, assign or sublet (except as expressly permitted by the provisions of this Lease) any Item of Leased Equipment.

SECTION 18. Remedies.

(a) Upon the occurrence of any Event of Default, the Lessor may, at its option, declare this Lease to be in default by written notice to such effect given to the Lessee, and at any time thereafter, the Lessor may exercise one or more of the following remedies, as the Lessor in its sole discretion shall lawfully elect:

(1) Proceed by appropriate court action, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(2) By notice in writing terminate this Lease, whereupon all rights of the Lessee to the use of the Leased Equipment shall absolutely cease and terminate but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessee, if so requested by the Lessor, shall at its expense promptly return the Leased Equipment to the possession of the Lessor at the place and in the condition required upon the return thereof pursuant to and in accordance with Section 5(b) hereof, or the Lessor, at its option, may enter upon the premises where the Leased Equipment is located and take immediate possession of and remove the same by summary proceedings or otherwise.

The Lessee shall, without further demand, forthwith pay to the Lessor an amount equal to any unpaid Rent due and payable for all periods up to and including the Basic Rent Date following the date on which the Lessor has declared this Lease to be in default, plus, as damages for loss of a bargain and not as a penalty, an amount equal to the Casualty Value of the Leased Equipment then subject to this Lease, computed as of the Basic Rent Date following the date on which the Lessor has declared this Lease to be in default. Following the return of the Leased Equipment to the Lessor pursuant to this paragraph (2), the Lessor shall proceed to sell the Leased Equipment in such manner as it shall deem appropriate. The proceeds of such sale shall be applied by the Lessor (A) first, to all costs, charges and expenses, including reasonable legal fees and disbursements, incurred by the Lessor as a result of the default and the exercise of its remedies with respect thereto, and (B) second, to reimburse the Lessee for the Casualty Value to the extent previously paid by the Lessee as damages. Any surplus remaining thereafter shall be retained by the Lessor. To the extent that the Casualty Value has become due but not been previously paid, the Lessee shall forthwith pay to the Lessor the sum of (i) the amount by which (X) the sum of (a) the Casualty Value thereof, and (b) the amount payable under clause (A) of the second preceding sentence, exceeds (Y) the sale price of the Leased Equipment, and (ii) interest at the Overdue Rate on the full amount of the Casualty Value, computed from the date the Casualty Value is payable hereunder until such Casualty Value is paid by the Lessee.

(b) The Lessee shall be liable for all costs, charges and expenses, including reasonable legal fees and disbursements, incurred by the Lessor by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto.

(c) No remedy referred to herein is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to the Lessor at law or in equity. No express or implied waiver by the Lessor of any default or Event of Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent default or Event of Default. The failure or delay of the Lessor in exercising any rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies and any single or partial exercise of any particular right by the Lessor shall not exhaust the same or constitute a waiver of any other right provided herein.

SECTION 19. Right of First Refusal.

(a) Provided that no Event of Default has occurred and is continuing hereunder, the Lessor agrees that, during the term of this Lease or any extension thereof and for 30 days following the expiration of the term of this Lease or any extension thereof with respect to any Item of

Leased Equipment, it will not lease or sell such Item of Leased Equipment unless the Lessor shall have given the Lessee at least 15 Business Days' prior written notice of any intended lease or sale, specifying the rental or sale price and the terms of such lease or sale, and the Lessee shall have the opportunity during said period to lease or purchase such Item of Leased Equipment at the same rental or price and on the same terms as specified in such notice.

(b) In the event the Lessee exercises such right of first refusal to purchase any Item of Leased Equipment, then, upon payment of the purchase price, the Lessor shall, upon request of the Lessee, execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Item of Leased Equipment is free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor) for such Item of Leased Equipment, and such other documents as may be required to release such Item of Leased Equipment from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

SECTION 20. Performance of Obligations of Lessee by Lessor.

If an Event of Default should occur hereunder, the Lessor may thereafter make the payment or perform or comply with the agreement, the nonpayment, nonperformance or noncompliance with which caused such Event of Default, and the amount of such payment and the amount of the reasonable expenses of the Lessor incurred in connection with such payment, or the performance of or compliance with such agreement, as the case may be, together with interest at the Overdue Rate as set forth in Exhibit C, shall be payable by the Lessee upon demand by the Lessor.

SECTION 21. Voluntary Termination.

(a) The Lessee shall have the right on the Termination Date to terminate this Lease with respect to all, but not less than all, Items of Leased Equipment subject to this Lease; provided, however, that no Event of Default, or event which with the giving of notice or the lapse of time, or both, would become an Event of Default, shall have occurred and be continuing, and provided, further that the Lessee shall have given the Lessor at least 180 days' prior written notice of its intention so to terminate this Lease.

SECTION 22. Notices.

All communications and notices provided for herein shall be in writing and shall become effective when deposited in the United States mail, with proper postage for first-class mail prepaid, addressed (a) if to the Lessor, at P.O. Box 30007, Salt Lake City, Utah 84125, Attention: Trust Department, Corporate Division (with copies to (1) Itel Capital

Services Corporation, at One Embarcadero Center, San Francisco, California 94111, Attention: Contract Administration, (2) the Trustee, at 130 John Street, New York, New York 10038, Attention: Corporation Trust and Agency Division and (3) each Beneficiary, at its address set forth in Exhibit C hereto), and (b) if to the Lessee, at its address set forth on the signature page hereof.

SECTION 23. Amendments and Miscellaneous.

(a) The terms of this Lease shall not be waived, altered, modified, amended, supplemented or terminated in any manner whatsoever except by written instrument signed by the Lessor and the Lessee; provided that no such waiver, alteration, modification, amendment or supplement shall make any change, and no termination shall be made, which is prohibited by the Indenture or any Supplement executed in conjunction with this Lease.

(b) This Lease, including all agreements, covenants, representations and warranties made herein or in any certificate delivered pursuant hereto, shall be binding upon and inure to the benefit of (1) the Lessor and its successors, assigns, agents, servants and personal representatives, and, (2) each Beneficiary, (3) the Trustee, as assignee and secured party, and the successors, assigns, agents, servants and personal representatives of each Beneficiary and the Trustee as assignee and secured party, (4) any holder of the obligations of the Lessor issued in connection with this Lease, and (5) the Lessee and its successors and, to the extent permitted hereby, assigns. Without limiting the generality of the foregoing, with respect to the provisions of Sections 6, 8, 13 and 15 hereof, each Beneficiary, the Trustee as assignee and secured party, any holder of obligations of the Lessor issued in connection with this Lease, and the successors, assigns, agents, servants and personal representatives of the foregoing shall each be indemnified thereunder and, with respect to clause (b) of the proviso to Section 13 hereof, the wilful misconduct or gross negligence of the Lessor or any one such person shall not affect the rights of any other person indemnified under such Section 13.

(c) All agreements, indemnities, covenants, representations and warranties contained in this Lease or in any document or certificate delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Lease and the expiration or other termination of this Lease.

(d) Any provision of this Lease which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

(e) This Lease shall constitute an agreement of lease and nothing herein shall be construed as conveying to the Lessee any right, title or interest in or to the Leased Equipment, except as lessee only.

(f) The single executed original of this Lease marked "Original" shall be the "Original" and all other counterparts hereof shall be marked and be "Duplicates". To the extent that this Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Lease may be created through the transfer or possession of any counterpart other than the "Original".

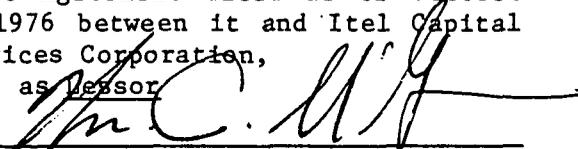
(g) This Lease shall be construed in accordance with, and shall be governed by, the laws of the State of Texas.

(h) Section headings are for convenience only and shall not be construed as part of this Lease.

(i) Although this Lease is dated as of the date first above written for convenience, the actual dates of execution hereof by the parties hereto are respectively the dates set forth opposite the signatures hereto, and this Lease shall be effective on the latest of such dates.

IN WITNESS WHEREOF, the parties hereto have each caused this Lease to be duly executed by their respective officers thereunto duly authorized.

FIRST SECURITY BANK OF UTAH, N.A.,  
not in its individual capacity, but  
solely as trustee under a Master  
Trust Agreement dated as of October  
1, 1976 between it and Itel Capital  
Services Corporation,  
as Lessor

By   
Authorized Officer

Date July 10, 1978

PENNZOIL COMPANY,  
as Lessee

By \_\_\_\_\_  
Authorized Officer

Date \_\_\_\_\_

[SEAL]

Address: Pennzoil Place  
P.O. Box 2967  
Houston, Texas 77001

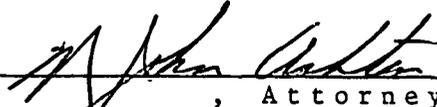
Attention: Harold E. Sortor  
Vice President

The undersigned hereby certifies that the person executing this Lease on behalf of the Lessee holds the indicated office, was duly elected thereto and at all relevant times has been a duly qualified and acting officer of the Lessee.

\_\_\_\_\_  
\_\_\_\_\_  
Date \_\_\_\_\_

The undersigned attorneys have affixed their signatures below to confirm that the provisions of the foregoing agreement relating to arbitration were included on the advice of counsel.

\_\_\_\_\_  
David A. Burns, Attorney for  
Pennzoil Company

  
\_\_\_\_\_  
, Attorney for  
First Security Bank of Utah, N.A.  
not in its individual capacity,  
but solely as trustee under a  
Master Trust Agreement dated as  
of October 1, 1976 between it and  
Itel Capital Services Corporation.

STATE OF TEXAS, )  
 ) ss.:  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1978, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that he is \_\_\_\_\_ of PENNZOIL COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires

STATE OF UTAH, )  
 ) ss.:  
COUNTY OF Salt Lake )

On this 10 day of July, 1978, before me personally appeared WILLIAM C. MCGREGOR, to me personally known, who, being by me duly sworn, says that he is TRUST ADMINISTRATOR of FIRST SECURITY BANK OF UTAH, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Verma L. Puelow  
Notary Public

[Notarial Seal]

My Commission Expires November 15, 1981

My Commission expires

DESCRIPTION OF EQUIPMENT

<u>Groups of Equipment</u>	<u>Quantity (a)</u>	<u>Manufacturer</u>	<u>Lessee's Identification Numbers (Both Inclusive)</u>	<u>Description (b)</u>
1	100	Richmond Tank Car Company	DVLX 1001 DVLX 1100	13,500 Gallon Exterior Coiled and Insulated Tank Cars for Molten Sulfur Service; AAR Designation DOT 111A100W1

(a) Equipment in a Group of Equipment shall include such additional quantities of Items of Equipment specifically described above as the Lessee shall include in a Certificate of Acceptance; provided, however, that in no event shall either (i) the Lessor's Cost of any such additional Item of Equipment exceed 115% of the Estimated Lessor's Cost, as such term is defined in the Participation Agreement, of any Item of Equipment specifically described, or (ii) the Maximum Financing Cost, Maximum Investment Commitment or Maximum Loan Commitment, as such terms are defined in the Participation Agreement, be exceeded, without the express approval of each affected party.

(b) Upon the prior written consent of the Lessor, which consent shall not be unreasonably withheld, additional equipment not specifically described above may be included as Equipment for the purposes hereof; provided, however, that in no event shall the Maximum Financing Cost, Maximum Investment Commitment or Maximum Loan Commitment, as such terms are defined in the Participation Agreement, be exceeded without the express approval of each affected party; and provided, further, that no such additional equipment shall be or become an Item of Leased Equipment unless and until the Lessee shall have taken, or caused to be taken, all such action as may be required under and pursuant to the Participation Agreement to perfect, protect and preserve the Lien granted to the Trustee by the Lessor under and pursuant to the Indenture and the related Supplement.

CERTIFICATE OF ACCEPTANCE NO. \_\_\_\_

under

Equipment Lease dated as of March 21, 1978 (the Lease) between FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity, but solely as trustee under a Master Trust Agreement dated as of October 1, 1976 between it and Itel Capital Services Corporation as lessor (the Lessor) and PENNZOIL COMPANY, as lessee (the Lessee).

1. Items of Equipment

The Lessee hereby certifies that the Items of Equipment set forth and described in Schedule 1 hereto (which Schedule includes the amount of the Lessor's Cost of each such Item), constituting Items of Equipment of the Group of Equipment indicated below, have been delivered to the location indicated below, tested and inspected by the Lessee, found to be in good order and accepted as Items of Leased Equipment under the Lease, all on the date indicated below:

Group of Equipment:

1

Location of Items of Equipment:

Date of Acceptance:

Markings:

2. Representations by the Lessee

The Lessee hereby represents and warrants to the Lessor, each Beneficiary, the Trustee, each Long-Term Lender and the Interim Lender, if any, as such terms are defined in the Lease, that on the Date of Acceptance with respect to each Item of Leased Equipment:

(1) the representations and warranties of the Lessee set forth in the Participation Agreement, as such term is defined in the Lease, are true and correct in all material respects on and as of such date as though made on and as of such date;

(2) the Lessee has satisfied or complied with all requirements set forth in the Participation Agreement and in the Lease to be satisfied or complied with on or prior to such date;

(3) no Event of Default under the Lease or event which, with the giving of notice or the lapse of time, or both, would become such an Event of Default has occurred and is continuing; and

(4) the Lessee has obtained, and there are in full force and effect, such insurance policies with respect to such Item of Leased Equipment required to be obtained under the terms of the Lease.

PENNZOIL COMPANY,  
as Lessee

By \_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_

Accepted on the Date of Acceptance set forth in paragraph 1 above on behalf of the Lessor:  
FIRST SECURITY BANK OF UTAH, N.A.,  
not in its individual capacity,  
but solely as trustee under a  
Master Trust Agreement dated as  
of October 1, 1976 between it and  
IteI Capital Services Corporation,  
as Lessor

By \_\_\_\_\_  
Authorized Representative

SCHEDULE 1 TO  
CERTIFICATE OF ACCEPTANCE NO. \_\_\_\_\_

Description of Equipment and Lessor's Cost:

<u>Quantity</u>	<u>Manufacturer or Seller</u>	<u>Description</u>	<u>Identification Number</u>	<u>New or Used</u>	<u>Lessor's Cost</u>
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Total Lessor's Cost \$ \_\_\_\_\_

EXHIBIT C

Group 1 Equipment  
(20-year Basic Lease Term)

Date of Lease: As of March 21, 1978

Beneficiary: Republic National Leasing Corporation  
P. O. Box 146  
400 North St. Paul, Suite 1110  
Dallas, Texas 75221  
Attention: Harold C. Hunter.  
Vice President -  
General Manager

Daily Lease  
Rate Factor: 1/360 of 120% of the prime interest  
rate of the Bank of America, National  
Trust & Savings Association (being  
the best per annum rate of interest  
charged by such Bank to its prime  
large commercial customers on short-  
term unsecured borrowings) in effect  
with respect to an Item of Leased  
Equipment and as adjusted from time  
to time thereafter to reflect all  
changes in such prime interest rate  
effective on the next business day  
following each change in such prime  
interest rate.

Rent  
Commencement Date: The Closing Date on which the appli-  
cable Item shall have been paid for  
by the Lessor

Basic Rent Dates: The fifteenth day of January and July  
in each year

Expiration Date: January 15, 1999

First Delivery Date: June 1, 1978

Final Delivery Date: December 31, 1978

Interim Rent Date: January 15, 1979

First  
Basic Rent Date: July 15, 1979

Last  
Basic Rent Date: January 15, 1999

Termination Date: January 15, 1994

Basic Lease Rate Factor:

Basic Rent Payment Nos. 1-30	5.0767%
Basic Rent Payment Nos. 31-40	3.3786%

Overdue Rate: One per cent in excess of the applicable Long-Term Debt Rate set forth in the Participation Agreement.

Equipment Marking: In letters not less than 1 inch in height: "Ownership subject to a Security Agreement filed under the Interstate Commerce Act, Section 20C."

Return of Equipment: The Lessee shall, at its own expense, return each Item of Leased Equipment to the Lessor at such location, within a radius of 1,000 miles of the point of delivery of such Item, as the Lessor shall select.

Investment Credit: Not applicable. The Lessor agrees to elect pursuant to section 48(d) of the Code, to treat the Lessee, for purposes of the investment tax credit provided by sections 38 and 50 of the Code, as the original purchaser and user of the Leased Equipment and shall provide the Lessee with the necessary documentation to evidence and implement said election.

Depreciable Life:

A 12-year depreciable life pursuant to section 167(m) of the Code for an asset described in Asset Guideline Class No. 00.25.

Depreciation Method:

Double declining balance method switching to the sum-of-the-years digits method without the prior consent of the Commissioner of Internal Revenue utilizing the "modified half-year" convention pursuant to Reg. section 1.167(a)-11 (c)-(2) and taking into account the Salvage Value of the Leased Equipment.

Salvage Value:

An amount equal to 10% of the Lessor's Cost of the Leased Equipment, which amount will be reduced by 10% of the Lessor's Cost as provided in section 167(f) of the Code.

EXHIBIT D  
Group 1 Equipment

The Casualty Value, if any, of each Item of Leased Equipment shall be the percentage of Lessor's Cost of such Item set forth opposite the applicable rent payment:

<u>Interim Rent Date and Rent Payment Number</u>	<u>Casualty Value (a)</u>
1979	
Interim Rent Date	108.4175 %
1	108.6234
1980	
2	108.5688
3	108.3101
1981	
4	107.8350
5	107.1725
1982	
6	106.3047
7	105.2572
1983	
8	104.0163
9	102.6039
1984	
10	101.0110
11	99.2557
1985	
12	97.3336
13	95.2591
1986	
14	93.0325
15	90.6640
1987	
16	88.1605
17	85.5269
1988	
18	82.7743
19	79.9055
1989	
20	76.9359
21	73.8646
1990	
22	70.7123
23	67.4740
1991	
24	64.1761
25	60.8063
1992	
26	57.3889
27	53.9056

<u>Rent Payment Number</u>	<u>Casualty Value (a)</u>
1993	50.3772 %
28	46.7837
29	
1994	43.1482
30	41.1151
31	
1995	39.0478
32	36.9187
33	
1996	34.7284
34	32.4596
35	
1997	30.1254
36	27.7085
37	
1998	25.2219
38	22.6481
39	
1999	20.0000
40	

and thereafter

(a) In the event the Basic Lease Rate Factor is increased, pursuant to the tax indemnification provisions set forth in Section 15 of the Lease, Casualty Values and Termination Values, if any, shall be adjusted accordingly.

Pen

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EQUIPMENT LEASE

Dated as of March 21, 1978

Between

FIRST SECURITY BANK OF UTAH, N.A.  
not in its individual capacity,  
but solely as trustee under a  
Master Trust Agreement dated as of  
October 1, 1976 between it and  
IteI Capital Services Corporation,  
as Lessor

and

PENNZOIL COMPANY,  
as Lessee

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Table of Contents

<u>Section</u>	<u>Subject</u>	<u>Page</u>
Section 1	Definitions; Construction of References . . . . .	1
Section 2	Lease of Equipment . . . . .	3
Section 3	Term and Rent . . . . .	4
Section 4	Net Lease . . . . .	5
Section 5	Return of Equipment . . . . .	5
Section 6	Warranties of the Lessor . . . . .	6
Section 7	Liens . . . . .	6
Section 8	Taxes . . . . .	7
Section 9	Use, Maintenance and Operation; Identifying Marks . . . . .	7
Section 10	Inspection . . . . .	9
Section 11	Loss or Destruction; Requisition of Use . . . . .	9
Section 12	Insurance . . . . .	11
Section 13	Indemnification . . . . .	12
Section 14	Sublease . . . . .	12
Section 15	Tax Indemnification . . . . .	13
Section 16	Lease Extension . . . . .	17
Section 17	Events of Default . . . . .	17
Section 18	Remedies . . . . .	18
Section 19	Right of First Refusal . . . . .	20
Section 20	Performance of Obligations of Lessee by Lessor. . . . .	20
Section 21	Voluntary Termination. . . . .	20
Section 22	Notices. . . . .	21
Section 23	Amendments and Miscellaneous . . . . .	21

Table of Contents

EXHIBIT A  
Description of Equipment

EXHIBIT B  
Certificate of Acceptance

EXHIBIT C  
Group 1 Equipment

EXHIBIT D  
Group 1 Equipment

## EQUIPMENT LEASE

THIS EQUIPMENT LEASE, dated as of the date set forth in Exhibit C hereto (the Lease), between FIRST SECURITY BANK OF UTAH, N.A., a national banking association, not in its individual capacity, but solely as trustee (the Lessor) under a Master Trust Agreement dated as of October 1, 1976 between it and Itel Capital Services Corporation, and the entity named as "Lessee" on the signature page hereof (the Lessee).

W I T N E S S E T H :

### SECTION 1. Definitions; Construction of References.

In this Lease, unless the context otherwise requires:

(a) All references in this instrument to designated Sections and other subdivisions are to designated Sections and other subdivisions of this Lease, and the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Section or other subdivision;

(b) The terms defined in this Section 1 or elsewhere in this Lease shall have the meanings assigned to them in this Section 1 or elsewhere and include the plural as well as the singular;

(c) Except as otherwise indicated, all the agreements or instruments hereinafter defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof;

(d) The following terms shall have the following meanings for all purposes of this Lease:

(1) Appraisal shall mean a procedure whereby two independent appraisers, neither of whom shall be a manufacturer of the Item of Leased Equipment for which Appraisal is required, one chosen by the Lessee and one by the Lessor, shall mutually agree upon the amount in question. The Lessor or the Lessee, as the case may be, shall deliver a written notice to the other party appointing its appraiser within 15 days after receipt from the other party of a written notice appointing that party's appraiser. If within 15 days after appointment of the two appraisers as described above, the two appraisers are unable to agree upon the amount in question, a third independent appraiser, who shall not be a manufacturer of such Item, shall be chosen within five days thereafter by the mutual consent of such first two appraisers or, if such first two appraisers fail to agree upon the appointment of a third appraiser, such appointment shall be made by an authorized representative of the American Arbitration Association or any organization successor thereto. The decision of the

third appraiser so appointed and chosen shall be given within 10 days after the selection of such third appraiser and such decision shall be binding and conclusive on the Lessor and the Lessee. The Lessor and the Lessee shall pay the fees and expenses of the respective appraisers appointed by them and shall share equally the fees and expenses of the third appraiser, if any.

(2) Basic Rent, Supplemental Rent and Rent shall have the meanings set forth in Section 3 hereof.

(3) Beneficiary, Daily Lease Rate Factor, Rent Commencement Date, Basic Rent Dates, Basic Lease Rate Factor, Expiration Date, First Delivery Date, Final Delivery Date, Interim Rent Date, First Basic Rent Date, Last Basic Rent Date, Depreciable Life, Depreciation Method, Salvage Value, Investment Credit, Overdue Rate, Lease Extension Periods, Return of Equipment, Termination Date and Equipment Marking shall have the meanings with respect to each Group of Equipment set forth in Exhibit C hereto.

(4) Business Day shall have the meaning set forth in the Participation Agreement.

(5) Casualty Value shall have the meaning with respect to each Group of Equipment set forth in Exhibit D hereto.

(6) Certificate of Acceptance shall mean a certificate of acceptance substantially in the form of Exhibit B hereto.

(7) Closing Date shall have the meaning set forth in the Participation Agreement.

(8) Equipment, and individually an Item or Item of Equipment, shall mean the items of equipment described in Exhibit A hereto.

(9) Fair Market Value of an Item of Leased Equipment shall be determined on the basis of, and shall mean the aggregate amount which would be obtainable in, an arm's-length transaction between an informed and willing buyer or user (other than: (i) a lessee currently in possession, or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell, and in such determination costs of removal from the location of current use shall not be a deduction from such value and all alternative uses in the hands of such buyer or user, including without limitation, the further leasing of such Item of Leased Equipment, shall be taken into account in making such determination. If the Lessor and the Lessee are unable to agree upon a determination of Fair Market Value with respect to a particular Item of Leased Equipment, such Fair Market Value shall be determined in accordance with the procedure for Appraisal.

(10) Group of Equipment and Lessor's Cost shall have the meanings set forth in the Certificate of Acceptance with respect to each Item of Leased Equipment.

(11) Indenture shall mean the Trust Indenture dated as of October 1, 1976 between United States Trust Company of New York, a New York corporation, not in its individual capacity, but solely as trustee thereunder (the Trustee), and the Lessor, as in effect on the date hereof.

(12) Leased Equipment, and individually an Item of Leased Equipment, shall have the meanings set forth in Section 2 hereof.

(13) Notes shall mean those promissory notes defined as Notes in the Participation Agreement issued in connection with the purchase of the Leased Equipment.

(14) Participation Agreement shall mean the agreement, dated as of the date hereof, among the Lessee, the Lessor, the Trustee, each Beneficiary and each entity named therein as Interim Lender or Long-Term Lender.

(15) Purchase Documents shall mean those documents defined as purchase documents in the Participation Agreement.

(16) Supplement shall mean each supplement to the Indenture creating a separate series of the Notes.

## SECTION 2. Lease of Equipment.

Subject to the terms and conditions of this Lease, the Lessor hereby agrees to lease to the Lessee and the Lessee hereby agrees to lease from the Lessor such Items of Equipment as shall be described in one or more Certificates of Acceptance executed and delivered on behalf of the Lessor with respect thereto and as shall have been delivered and accepted on or after the First Delivery Date but on or before the Final Delivery Date (Leased Equipment, and individually an Item of Leased Equipment). Subject to the provisions of the Participation Agreement, upon delivery of each Item of Equipment to the Lessor, the Lessee will cause an authorized representative of the Lessee to inspect the same and, if such Item of Equipment is found to be in good order, to accept such Item of Equipment and to execute and deliver a Certificate of Acceptance with respect thereto, whereupon, but also subject to the provisions of the Participation Agreement, such Item of Equipment shall be deemed to have been delivered to and accepted by the Lessee and shall be subject to the terms and conditions of this Lease.

SECTION 3. Term and Rent.

(a) The term of this Lease as to each Item of Leased Equipment included in a Group of Equipment shall begin on its date of acceptance, as set forth in the Certificate of Acceptance executed and delivered with respect thereto, and shall end on the Expiration Date with respect to such Group of Equipment, unless this Lease shall have been terminated, or the term of this Lease with respect to such Group of Equipment shall have been extended, by the terms hereof.

(b) The Lessee shall pay to the Lessor as Basic Rent (herein referred to as Basic Rent) for each Item of Leased Equipment subject to this Lease, the following:

(1) on the Interim Rent Date, an amount equal to the Daily Lease Rate Factor, if any, multiplied by the Lessor's Cost of such Item, for each day elapsed from and including the Rent Commencement Date with respect to such Item to but excluding the Interim Rent Date;

(2) on the First Basic Rent Date, an amount equal to the Basic Lease Rate Factor, multiplied by the Lessor's Cost of such Item; and

(3) on each Basic Rent Date thereafter to and including the Last Basic Rent Date, an amount equal to the Basic Lease Rate Factor, multiplied by the Lessor's Cost of such Item.

(c) The Lessee shall pay to the Lessor the following amounts (herein referred to as Supplemental Rent and, together with all Basic Rent, as Rent):

(1) on demand, any amount payable hereunder (other than Basic Rent and Casualty Value) which the Lessee assumes the obligation to pay, or agrees to pay, under this Lease to the Lessor or others;

(2) on the date provided herein, any amount payable hereunder as Casualty Value; and

(3) to the extent permitted by applicable law, interest (computed on the basis of a 360-day year of twelve 30-day months) at the Overdue Rate on any payment of Basic Rent or Casualty Value not paid when due for any period for which the same shall be overdue and on any payment of Supplemental Rent (including, without limitation, interest payable under this clause (3), but excluding payments of Casualty Value) not paid when demanded hereunder for the period from the date of such demand until the date on which the same shall be paid.

(d) Subject to the provisions of the Participation Agreement, all payments of Rent hereunder shall be made so that the Lessor shall have immediately available funds no later than 1:00 p.m. Eastern Standard Time on the date payable hereunder, and shall be paid to the Lessor at its address set forth herein or at such other address as the Lessor may direct by notice in writing to the Lessee.

SECTION 4. Net Lease.

This Lease is a net lease and the Lessee acknowledges and agrees that the Lessee's obligation to pay all Rent hereunder, and the rights of the Lessor in and to such Rent, shall be absolute and unconditional and shall not be subject to any abatement, reduction, set-off, defense, counterclaim or recoupment (Abatements) for any reason whatsoever, including, without limitation, Abatements due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise, or against the manufacturer or seller of any Item of Leased Equipment. Except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the respective obligations of the Lessor or the Lessee be affected, by reason of any defect in or damage to, or any loss or destruction of, the Leased Equipment or any Item thereof from whatsoever cause, or the interference with the use thereof by any private person, corporation or governmental authority, or the invalidity or unenforceability or lack of due authorization of this Lease or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law or regulation to the contrary notwithstanding, it being the express intention of the Lessor and the Lessee that all Rent payable by the Lessee hereunder shall be, and continue to be, payable in all events unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

SECTION 5. Return of Equipment.

(a) Upon the expiration or termination of this Lease with respect to a Group of Equipment, the Lessee, at its own expense, will return the Items of Leased Equipment then subject to this Lease which are included in such Group of Equipment to the Lessor in the condition in which such Leased Equipment is required to be maintained pursuant to Section 9 hereof and, except as otherwise provided in the succeeding paragraph (b), pursuant to the instructions set forth under the heading Return of Equipment in Exhibit C to this Lease. Such Leased Equipment, upon redelivery pursuant hereto, shall be free and clear of all mortgages, liens, security interests, charges, encumbrances and claims (Liens), other than Liens (a) arising pursuant to the express terms of the Indenture, (b) resulting from voluntary action by the Lessor without the prior approval of the Lessee and not taken as the result of any default by the Lessee, or (c) resulting from claims against the Lessor not related to the Lessor's ownership of the Leased Equipment (Liens described in clauses (a), (b) and (c) above being herein referred to as Lessor's Liens).

(b) Upon the termination of this Lease in accordance with Section 18 hereof, the Lessee, at its own cost, expense and risk shall (a) forthwith and in the usual manner (including, without limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Item has been interchanged, to return such Item so interchanged) place the Leased Equipment upon such storage tracks as the Lessor may reasonably designate, (b) permit the Lessor to store the Leased Equipment on such tracks at the risk of the Lessee without charge for insurance, rent or storage until the Leased Equipment shall have been sold, leased or otherwise disposed of by the Lessor and (c) transport the Leased Equipment to any connecting carrier for shipment, all as directed by the Lessor. During any such storage period, the Lessee's obligations under Sections 9, 10 and 12 shall remain in full force and effect notwithstanding the termination of this Lease.

SECTION 6. Warranties of the Lessor.

(a) The Lessor warrants that during the term of this Lease, if no Event of Default has occurred, the Lessee's use of the Leased Equipment shall not be interrupted by the Lessor or anyone claiming solely through or under the Lessor.

(b) The warranties set forth in paragraph (a) of this Section are in lieu of all other warranties of the Lessor, whether written, oral or implied with respect to this Lease or the Leased Equipment; and the Lessor shall not be deemed to have made, and the LESSOR HEREBY DISCLAIMS ANY OTHER REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE LEASED EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE LEASED EQUIPMENT OR CONFORMITY OF THE LEASED EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER OR ORDERS RELATING THERETO, NOR SHALL THE LESSOR BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT), but the Lessor authorizes the Lessee, at the Lessee's expense, to assert for the Lessor's account, during the term of this Lease, so long as no Event of Default shall have occurred hereunder and be continuing, all of the Lessor's rights under any applicable manufacturer's or seller's warranty and the Lessor agrees to cooperate with the Lessee in asserting such rights; provided, however, that the Lessee shall indemnify and shall hold the Lessor harmless from and against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by the Lessor in connection with, as a result of, or incidental to, any action by the Lessee pursuant to the above authorization. Any amount received by the Lessee as payment under any such warranty shall be applied to restore the Leased Equipment to the condition required by Section 9 hereof, with the balance of such amount, if any, less reasonable expenses of collection, to be paid over to the Lessor.

SECTION 7. Liens.

The Lessee will not directly or indirectly create, incur, assume or suffer to exist any Liens on or with respect to the Leased Equipment,

the Lessor's title thereto or any interest therein (and the Lessee will promptly, at its own expense, take such action as may be necessary duly to discharge any such Lien), except (a) the respective rights of the Lessor and the Lessee as herein provided, (b) Lessor's Liens, (c) Liens for taxes either not yet due or being contested in good faith and by appropriate proceedings, if counsel for the Lessor shall have reasonably determined that the nonpayment of any such tax or the contest of any such payment in such proceedings do not, in the opinion of such counsel, adversely affect the title, property, or rights of the Lessor, (d) inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like Liens arising in the ordinary course of business of the Lessee and not delinquent, and (e) Liens granted by the Lessor to any assignee or security assignee of the Lessor.

SECTION 8. Taxes.

The Lessee agrees to pay and to indemnify the Lessor for, and hold the Lessor harmless from and against, all income, franchise, sales, use, personal property, ad valorem, value added, leasing, leasing use, stamp or other taxes, levies, imposts, duties, charges, or withholdings of any nature, together with any penalties, fines or interest thereon (Impositions), arising out of the transactions contemplated by this Lease and imposed against the Lessor, the Lessee or the Leased Equipment by any federal, state, local or foreign government or taxing authority upon or with respect to the Leased Equipment or upon the sale, purchase, ownership, delivery, leasing, possession, use, operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon or with respect to this Lease (excluding, however, Impositions on and measured solely by the net income of the Lessor) unless, and only to the extent that, the Lessee shall have given to the Lessor written notice of any such Imposition, which notice shall state that such Imposition is being contested by the Lessee in good faith and by appropriate proceedings and counsel for the Lessor shall have reasonably determined that the nonpayment thereof or the contest thereof in such proceedings does not, in the opinion of such counsel, adversely affect the title, property or rights of the Lessor; provided, however, that if no Event of Default shall have occurred and be continuing hereunder, the Lessee shall not be required to pay and to indemnify the Lessor for any taxes imposed solely as a result of a transfer by the Lessor of its interest in this Lease. If a claim is made against the Lessee or the Lessor for any Imposition, the party receiving notice of such claim shall promptly notify the other. In case any report or return is required to be made with respect to any obligation of the Lessee under this Section 8 or arising out of this Section 8, the Lessee will either (after notice to the Lessor) make such report or return in such manner as will show the ownership of the Leased Equipment in the Lessor and send a copy of such report or return to the Lessor or will notify the Lessor of such requirement and make such report or return in such manner as shall be satisfactory to the Lessor. The Lessor agrees to cooperate fully with the Lessee in the preparation of any such report or return.

SECTION 9. Use, Maintenance and Operation; Identifying Marks.

(a) The Lessee agrees that the Leased Equipment will be used or is intended for use, in connection with interstate commerce and will be used in compliance with any and all statutes, laws, ordinances and regulations of any governmental agency applicable to the use of the Leased Equipment, and, subject to the provisions of Section 14 hereof, will at all times be used solely in the conduct of its business and be and remain in the possession and control of the Lessee within the geographic limits of the continental United States; provided, however, that the Lessee may use or permit the use of Items of Leased Equipment having an aggregate Lessor's Cost not in excess of 15% of the aggregate Lessor's Cost of all Leased Equipment then subject to this Lease, outside the geographic limits of the continental United States in interchange in the normal course of its business. Throughout the term of this Lease, the possession, use and maintenance of the Leased Equipment shall be at the sole risk and expense of the Lessee.

(b) The Lessee shall use the Items of Leased Equipment only in the manner for which they were designed and intended and will, at its own cost and expense, repair and maintain each Item of Leased Equipment so as to keep it in as good condition as when delivered to the Lessee hereunder, ordinary wear and tear excepted, eligible for interchange service and suitable for use under load pursuant to any and all federal or AAR requirements; provided, however, that for all purposes under this Lease ordinary wear and tear shall not be deemed to include corrosion of or damage to the Leased Equipment caused or contributed to by sulphuric acid or any other chemical agent, if such corrosion or damage materially impairs the use or marketability of the Leased Equipment.

(c) Except as set forth in paragraph (d) below, the Lessee shall be entitled from time to time during the term of this Lease, to acquire and install on any Item of Leased Equipment at the Lessee's expense, such additional features or options as may be available at such time with respect to such Item, and such additional features and options shall not be considered accessions to such Item and title thereto shall remain in the Lessee except as provided in the last sentence of this paragraph (c). Such additional features or options shall be removed by the Lessee before such Item is returned to the Lessor, and the Lessee shall repair all damage to such Item resulting from such installation and removal so as to restore such Item to the condition in which it existed prior to the installation of such additional features or options. Any such additional features and options not so removed shall be considered accessions to such Item and shall become the property of the Lessor.

(d) The Lessee will not, without the prior written consent of the Lessor, which consent shall not be unreasonably withheld and which consent shall not be withheld if such accessory, equipment or device is required by applicable law, governmental regulation or AAR requirement, affix or install any accessory, equipment or device on any Item of Leased

Equipment leased hereunder which will either impair the originally intended function or use of any such Item or constitute an improvement or addition to such Item of Leased Equipment which is not, within the meaning of any law, regulation or procedure then in effect, readily removable without causing material damage to such Item of Leased Equipment. Only such accessories, equipment and devices which are not readily removable without material damage shall upon attachment or affixation become the property of the Lessor and thereupon all such accessories, equipment and devices shall become a part of the Leased Equipment leased hereunder. The replaced parts shall no longer be the property of the Lessor.

(e) The Lessee agrees, at its own cost and expense, to (1) cause each Item of Leased Equipment to be kept numbered with the identification or serial number therefor as specified in the Certificate of Acceptance therefor and (2) maintain the Equipment Marking on each Item of Leased Equipment and such other markings as from time to time may be required by law or otherwise deemed necessary by the Lessor in order to protect the title of the Lessor to such Item of Equipment, the rights of the Lessor under this Lease and the Lien granted by the Lessor in financing the Lessor's Cost of the Leased Equipment. The Lessee will not place any Item of Leased Equipment in operation or exercise any control or dominion over the same until such Equipment Marking has been placed thereon. The Lessee will replace promptly any such Equipment Marking which may be removed, defaced or destroyed.

SECTION 10. Inspection.

The Lessor shall have the right, but not the duty, to inspect the Leased Equipment. Upon the request of the Lessor, the Lessee shall, at any reasonable time, make the Leased Equipment, and the Lessee's records pertaining to the Leased Equipment, available to the Lessor for inspection.

SECTION 11. Loss or Destruction; Requisition of Use.

(a) In the event that any Item of Leased Equipment shall be or become damaged, worn out, destroyed, lost, stolen, or permanently rendered unfit for use for any reason whatsoever, or title thereto shall be requisitioned or otherwise taken by any governmental authority under power of eminent domain or otherwise (Requisition of Use), or any Item of Leased Equipment is returned to the manufacturer or seller thereof pursuant to the patent indemnity provisions of the Purchase Documents, such fact shall promptly be reported by the Lessee to the Lessor.

(b) The Lessee shall determine, within 15 days after the date of occurrence of any such damage or wearing out, whether such Item of Leased Equipment can be repaired or replaced.

(c) In the event the Lessee determines that such Item cannot be repaired or replaced or in the event of such destruction, loss, theft, unfitness for use, Requisition of Use for a stated period which exceeds the

term of this Lease, or permanent return of such Item to the manufacturer or seller thereof without replacement thereof (any of such occurrences being referred to as an Event of Loss), the Lessee shall promptly notify the Lessor of such Event of Loss. On the Basic Rent Date next following the date of such Event of Loss, the Lessee shall pay to the Lessor the Casualty Value of such Item, determined as of such Basic Rent Date, together with any Rent then due, whereupon the Lessee's obligation to pay further Basic Rent for such Item shall cease, but the Lessee's obligation to pay Supplemental Rent, if any, for such Item, and to pay Rent for all other Items of Leased Equipment shall remain unchanged. In the event the Lessee determines that such Item can be repaired or replaced, the Lessee shall continue to make all payments of Basic Rent due with respect to such Item and shall (1) cause such Item to be repaired or replaced within 90 days after the occurrence of such damage or wearing out, and (2) in the event of replacement, take such action as may be required under and pursuant to the Indenture to perfect, protect and preserve any security interests created by the Lessor under and pursuant to the Indenture; provided, however, that if the Lessee shall, within such 90-day period, have commenced the repair or replacement of such Item and be diligently pursuing such repair or replacement, but is prevented from completing such repair, or replacement within such 90-day period due to causes beyond the Lessee's control, then the time for repair or replacement shall be extended by the number of days necessary to complete such repair or replacement up to a maximum of 90 additional days, and further provided, that if the Lessee shall fail to repair or replace such Item within such repair or replacement period (including any extension thereof) an Event of Loss shall be deemed to have occurred and the Lessee shall, on the Basic Rent Date next following the end of such repair or replacement period, pay to the Lessor the Casualty Value of such Item, determined as of such Basic Rent Date, together with any Rent then due. If at such time no more Basic Rent is or will become payable under this Lease, the Casualty Value shall be paid within 30 days following, as appropriate, the Event of Loss or the repair or replacement period. Notwithstanding the foregoing, the Lessee, pursuant to the provisions of Section 15 hereof, shall still be required to indemnify the Lessor for any Loss, as defined in Section 15 hereof, due to the Lessee's act of replacing an Item of Leased Equipment authorized hereby. Upon making such Casualty Value payment in respect of such Item and all Rent due and owing with respect thereto, the Lessee's obligation to pay further Basic Rent for such Item shall cease, but the Lessee's obligation to pay Supplemental Rent, if any, for such Item, and to pay Rent for all other Items of Leased Equipment shall remain unchanged. In the event the Lessee determines that an Item of Leased Equipment cannot be repaired or replaced, and except in the case of loss, theft, destruction, or permanent return to the manufacturer or seller, the Lessor shall be entitled to recover possession of such Item, unless possession of such Item is required to be delivered to an insurance carrier (other than the Lessee) in order to settle an insurance claim arising out of the Event of Loss. The Lessor shall be entitled to retain any salvage value collected by such insurance

carrier in excess of the amount paid to the Lessor by said insurance carrier. The Lessor shall be under no duty to the Lessee to pursue any claim against any governmental authority, but the Lessee may at its own cost and expense pursue the same on behalf of the Lessor in such manner as may be satisfactory to the Lessor. Any replacement Item installed by the Lessee in accordance with the provisions of this Section 11(c) shall be in as good operating condition as, and shall have a value and utility at least equal to, the Item replaced, assuming the Item replaced was in the condition and state of repair required to be maintained by the terms hereof. In the event the Lessee determines that an Item of Leased Equipment can be repaired or replaced, the Lessee shall be entitled to possession of any scrap resulting from repairs or the Item which is replaced.

(d) Following payment of the Casualty Value of an Item of Leased Equipment in accordance with the provisions of Section 11(c), the Lessee shall, as agent for the Lessor, dispose of such Item as soon as it is able to do so for the best price obtainable. Any such disposition shall be on an "as is", "where is" basis without representation or warranty, express or implied. As to each separate Item so disposed of, the Lessee may, after paying the Lessor the amounts specified in Section 11(c), retain all amounts of such price, plus damages received by the Lessee by reason of such Event of Loss, up to the Casualty Value and the Lessee's reasonable costs and expenses of disposition attributable thereto, and shall remit the excess, if any, to the Lessor. As to each Item of Leased Equipment returned to the manufacturer or seller thereof in the manner described in Section 11(a) and not replaced or modified by the manufacturer or seller pursuant to the patent indemnity provisions of the Purchase Documents, the Lessor agrees that the Lessee shall receive and retain all amounts payable to the Lessor by the manufacturer or seller for the return of such Item, up to the Casualty Value paid by the Lessee hereunder, and any excess shall be paid over to or retained by the Lessor. As to each Item of Leased Equipment modified and each replacement Item installed by the manufacturer or seller pursuant to the patent indemnity provisions of the Purchase Documents, the Lessor and the Lessee agree that such modified Item or replacement Item shall be delivered to the Lessee and shall, without any further act of the Lessor or the Lessee, be considered an Item for all purposes of this Lease.

(e) Except as hereinabove in this Section 11 provided, the Lessee shall bear the risk of loss and shall not be released from its obligations hereunder in the event of any damage or Event of Loss to any Item of Leased Equipment after delivery to and acceptance by the Lessee hereunder.

(f) In the case of a Requisition of Use of any Item of Leased Equipment for an indefinite period or for a stated period which does not exceed the term of this Lease, such Requisition of Use shall not terminate this Lease with respect to such Item, and each and every obligation of the Lessee with respect thereto shall remain in full force and effect. So long as no Event of Default shall have occurred and be continuing under this Lease, the Lessee shall be entitled to all sums received by reason of any such Requisition of Use, up to the amount of the Basic Rent paid by the Lessee during the period of such Requisition of Use plus any out-of-pocket costs or expenses incurred in maintaining or insuring such

Item, in accordance with the terms hereof, during the period of such Requisition of Use.

SECTION 12. Insurance.

At its own expense, the Lessee will cause to be carried and maintained public liability insurance, in each case in amounts and against risks customarily insured against by the Lessee on similar equipment owned by it, but in no event shall the deductible on such insurance exceed \$2,000,000. At its own expense, the Lessee will either (i) cause to be carried and maintained casualty insurance with respect to each Item of Leased Equipment, in amounts, with deductibles, and against risks customarily insured against by the Lessee on similar equipment owned by it, or (ii), if a substantial amount of similar equipment owned by it is similarly treated, self-insure each Item of Leased Equipment by setting aside adequate reserves against loss from such risks otherwise customarily insured against by the Lessee. Any policies with respect to such insurance shall be with an insurance carrier acceptable to the Lessor and, if requested by the Lessor, shall name the Lessor, the Trustee (as assignee and secured party) and the Lessee as assureds and loss payees, as their interests may appear, and shall provide for at least 30 days' prior written notice by the insurance carrier to the Lessor in the event of cancellation or expiration. The Lessee shall, upon request of the Lessor, furnish appropriate evidence of such insurance. Provided that (i) no Event of Default has occurred and is continuing and (ii) the Lessee has paid any Rent then due and owing under this Lease, the Lessor shall promptly, but in no event in less than 10 Business Days following receipt thereof, make available or cause to be made available to the Lessee any insurance proceeds then payable to the Lessee hereunder.

SECTION 13. Indemnification.

The Lessee agrees to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless the Lessor from and against any and all liabilities, obligations, losses, damages, penalties, claims (including, without limitation, claims involving strict or absolute liability), actions, suits, costs, expenses and disbursements (including, without limitation, legal fees and expenses) of any kind and nature whatsoever (Claims) which may be imposed on, incurred or asserted against the Lessor, whether or not the Lessor shall also be indemnified as to any such Claim by any other person, in any way relating to or arising out of this Lease or any document contemplated hereby or the performance or enforcement of any of the terms hereof or thereof, or in any way relating to or arising out of the manufacture, purchase, acceptance, rejection, ownership, delivery, lease, sublease, possession, use, operation, maintenance, condition, registration, sale, return, storage or disposition of any Item of Leased Equipment or any accident in connection therewith (including, without limitation, latent and other defects, whether or not discoverable and any Claim for patent, trademark or copyright infringement); provided, however, that the Lessee shall not be required to indemnify the Lessor for

(a) any Claim in respect of any Item of Leased Equipment arising from acts or events which occur after possession of such Item of Leased Equipment has been redelivered to the Lessor, (b) any Claim resulting from acts which would constitute the wilful misconduct or gross negligence of the Lessor, or (c) any Claim resulting solely from the Lessor's miscalculation of its yields at the inception of this Lease. To the extent that the Lessor in fact receives indemnification payments from the Lessee under the indemnification provisions of this Section 13, the Lessee shall be subrogated, to the extent of such indemnity paid, to the Lessor's rights with respect to the transaction or event requiring or giving rise to such indemnity. The Lessee agrees that the Lessor shall not be liable to the Lessee for any Claim caused directly or indirectly by the inadequacy of any Item of Leased Equipment for any purpose or any deficiency or defect therein or the use or maintenance thereof or any repairs, servicing or adjustments thereto or any delay in providing or failure to provide any thereof or any interruption or loss of service or use thereof or any loss of business, all of which shall be the risk and responsibility of the Lessee. The rights and indemnities of the Lessor hereunder are expressly made for the benefit of, and shall be enforceable by, the Lessor notwithstanding the fact that the Lessor is either no longer a party to this Lease, or was not a party to this Lease at its outset.

SECTION 14. Sublease.

The Lessee will not, without the prior written consent of the Lessor, which consent will not be unreasonably withheld or unreasonably delayed, sublet or otherwise relinquish possession of any of the Leased Equipment (except by way of interchange in the normal course of its business) or assign any of its rights hereunder; provided, however, that without such consent, the Lessee, so long as no event which, with the giving of notice or lapse of time or both, would become an Event of Default shall have occurred hereunder and be continuing, may sublease any Item of Leased Equipment (i), upon written notice to the Lessor, to any member of the consolidated group of companies of which Lessee is a member and (ii) upon prior written notice to the Lessor, to any person for a period or periods not in excess of an aggregate of 90 days in any successive 12 month period. No sublease shall be permitted hereunder unless (a) the rights of the sublessee thereunder are expressly subject and subordinate to the rights of the Lessor and any security assignee of the Lessor, and (b) except as otherwise provided in the proviso to the first sentence of Section 9(a) hereof, the Items of Leased Equipment to be subleased shall be used within the geographic limits of the continental United States. No sublease, other relinquishment of the possession of any of the Leased Equipment, or assignment by the Lessee of any of its rights hereunder shall in any way discharge or diminish any of the Lessee's obligations to the Lessor hereunder.

SECTION 15. Tax Indemnification.

(a) This Lease has been entered into on the basis that the Lessor shall be entitled to such deductions, credits and other benefits

with respect to each Item of Leased Equipment as are provided to an owner of property including, without limitation:

(i) unless otherwise provided in Exhibit C hereto, the investment tax credit (Investment Credit) allowed by section 38 and related sections of the Internal Revenue Code of 1954, as amended (Code), in an amount equal to the percentage set forth in Exhibit C hereto of the Lessor's Cost of each Item of Leased Equipment;

(ii) the deduction for accelerated depreciation (Depreciation Deduction) on each Item of Leased Equipment under various sections of the Code based upon the Depreciable Life, Depreciation Method and Salvage Value set forth in Exhibit C hereto; and

(iii) the deduction under section 163 of the Code (Interest Deduction) in the full amount of any interest paid or accrued by the Lessor in accordance with the Lessor's method of accounting for tax purposes with respect to any indebtedness incurred by the Lessor in financing its purchase of each Item of Leased Equipment.

(b) If, for any reason whatsoever other than the events specified in paragraph (c) of this Section 15, the Lessor shall lose, shall not have or shall lose the right to claim, or if there shall be disallowed or recaptured with respect to the Lessor, all or any portion of the Investment Credit, the Interest Deduction or the Depreciation Deduction as is provided to an owner of property with respect to any Item of Leased Equipment or if for Federal income tax purposes any amount includible in the gross income of, or any deductions allowable to, the Lessor with respect to the Items is treated as derived from or allocable to sources outside the United States (Loss), then the Basic Lease Rate Factor applicable to such Item of Leased Equipment shall, on and after the next succeeding Basic Rent Date, after written notice to the Lessee by the Lessor that a Loss has occurred, be increased by such amount for such Item as will cause the Lessor's net return over the term of the Lease in respect of such Item to equal the net return that would have been available if the Lessor had been entitled to the utilization of all of the Investment Credit, the Interest Deduction and the Depreciation Deduction with respect to such Item (computed on the same assumptions utilized by the Lessor in originally evaluating its after-tax economic and accounting yields and cash flows resulting from this Lease), and the Lessee shall forthwith pay to the Lessor the amount which, after deduction of all income tax liabilities payable by the Lessor in respect of the receipt of such amount, shall be equal to the amount of any interest and penalties which may be assessed by the United States or any State against the Lessor attributable to the Loss. If any indemnity amount payable herein becomes payable after the Last Basic Rent Date, then the total amount of such indemnity payment shall be payable in a lump sum within thirty days of the Lessor's reasonable request therefor. For purposes of this Section 15, a Loss shall occur upon the earliest of (1) a determination (as defined in Section 1313 (a) of the Code) of additional tax liability to reflect such Loss, (2) the payment by

the Lessor to the Internal Revenue Service of the tax increase resulting from such Loss (or a reduction in the amount of any refund which the Lessor would have been entitled to receive but for the Loss), without any such determination following receipt of an opinion by mutually acceptable independent tax counsel to the effect that there is no reasonable basis to contest any assertion of additional tax (or reduction in a claim for refund) by the Internal Revenue Service, or (3) payment of a deficiency pursuant to an election by the Lessor under clause (b) of paragraph (d) of this Section 15 (hereafter called the Refund Option).

(c) With respect to any Item of Leased Equipment, the Lessor shall be responsible for, and shall not be entitled to a payment under this Section 15 on account of, any Loss due to one or more of the following events: (i) a disqualifying disposition due to the sale of such Item of Leased Equipment or the lease thereof by the Lessor prior to any default by the Lessee, or (ii) a failure of the Lessor to timely or properly claim the Investment Credit, Interest Deduction or Depreciation Deduction for such Item of Leased Equipment in the tax return of the Lessor, other than any such failure by the Lessor following the receipt of an opinion from a mutually acceptable independent tax counsel to the effect that there is not a reasonable basis for making such claim without the Lessor incurring a risk of imposition of a civil or criminal penalty, or (iii) a disqualifying change in the nature of the Lessor's business or the liquidation thereof, or (iv) a foreclosure by any person holding through the Lessor of a lien on such Item of Leased Equipment, which foreclosure results solely from an act of the Lessor or failure to act by the Lessor, or (v) any event which by the terms of this Lease requires payment by the Lessee of the Casualty Value of such Item, if such Casualty Value is thereafter actually paid by the Lessee, to the extent that such payment reimburses the Lessor for amounts otherwise payable by the Lessee pursuant to this Section 15, or (vi) the failure of the Lessor to have sufficient liability for tax against which to apply such Investment Credit or taxable income against which to apply such Depreciation Deduction or Interest Deduction.

(d) Upon receipt by the Lessor of a written notification from the Internal Revenue Service of a proposed disallowance or adjustment for which an amount may be payable by the Lessee in accordance with this Section 15 (hereinafter called a Claim), the Lessor shall promptly notify the Lessee of said Claim (which notice shall include all relevant information relating to such Claim which may be particularly within the knowledge of the Lessor). The Lessor shall contest such Claim provided the following conditions are satisfied:

(1) The Lessee requests the Lessor to contest such Claim within 30 days after the Lessor has so notified the Lessee and within 60 days thereafter independent tax counsel selected by the Lessee and acceptable to the Beneficiary (hereinafter called Independent Tax Counsel) renders a written opinion that there is a reasonable basis to contest such Claim; and

(ii) The Lessee agrees to pay on demand all out-of-pocket reasonable expenses, including, without limitation, the fees and disbursements of such Independent Tax Counsel, accountants and investigators, paid or incurred by the Lessor in connection with contesting such Claim.

Upon satisfaction of the conditions described in subparagraphs (i) and (ii) immediately above, the Lessor shall be obligated to contest such Claim in an appropriate judicial forum. In fulfilling its obligation to contest a Claim in a judicial forum, the Lessor shall have the right, in its sole discretion, to elect either (a) to petition the Tax Court of the United States for a redetermination of the deficiency proposed to be assessed by the Internal Revenue Service as a result of such Claim or (b) to pay the deficiency and institute an action in a court of competent jurisdiction for a refund of taxes paid. Pursuant to its obligation to contest such Claim, the Lessor, at its sole option, may choose to forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such Claim (other than such administrative appeals, proceedings, hearings or conferences as may be a condition precedent to filing and pursuing a claim for a redetermination of deficiency, or for a refund of taxes in an appropriate judicial forum, as the case may be). The Lessor will not compromise or settle any Claim indemnified herein without the consent of the Lessee, which consent shall not be unreasonably withheld; provided, however, that such consent shall be deemed given if such proposed compromise or settlement shall not be disapproved by the Lessee within 30 days after written notice thereof from the Lessor.

If, the Lessor shall have elected the Refund Option and if after actual receipt by the Lessor of an amount paid by the Lessee and attributable to a Loss, the extent of such Loss shall be established by the final adjudication thereof or a settlement with the consent of the Lessee, then on the next succeeding Basic Rent Date (or, if there is no succeeding Basic Rent Date, within 30 days), after such final adjudication or settlement, as the case may be, the Lessor shall repay to the Lessee all or a portion of the amounts or amounts theretofore received by the Lessor and paid by the Lessee with respect to such Loss which (by reason of such adjudication or settlement) the Lessor did not ultimately incur less, in either case, unpaid expenses of the contest. In addition to the foregoing, in the event of any final adjudication or settlement described in the preceding sentence, the increase in subsequent payments of Basic Rent in respect of the Item by reason of such Loss shall, commencing on the next succeeding Basic Rent Date after such final adjudication or settlement, as the case may be, be reduced to the extent such increase related to the portion of such Loss the Lessor did not ultimately incur. Notwithstanding the foregoing, the Lessor shall not be required to make any payment hereunder so long as an Event of Default (or an event which would with the passage of time, or notice, or both, would constitute an Event of Default) shall have occurred and be continuing hereunder.

(e) In the event and to the extent that the cost of any improvement or addition to any Item of Leased Equipment made by the Lessee which cannot be readily removed without causing material damage to such Item (any such improvement or addition being herein referred to as a Capital Expenditure) is required to be included in the gross income of the Lessor for federal income tax purposes, then the Lessee shall pay to the Lessor on each Basic Rent Date thereafter, commencing with the first Basic Rent Date following the date on which the Lessee is required to furnish written notice of such inclusion to the Lessor pursuant to the succeeding paragraph (f), such amount which (after deduction of all taxes required to be paid by the Lessor on receipt thereof under the laws of the United States or any political subdivision thereof), when taken together with the amount of Basic Rent due on each such date will cause the Lessor's net return over the term of the Lease in respect of such Item to equal the net return that would have been available if the cost of such Capital Expenditure had not been includable in the Lessor's gross income, and the Casualty Values payable with respect to such Item shall be adjusted in amounts calculated in a similar such manner by the Lessor.

(f) For purposes of the preceding paragraph (e), the cost of any Capital Expenditure made by the Lessee shall be deemed to be "required to be included in the gross income of the Lessor for federal income tax purposes", if such inclusion arises from (1) a determination (as defined in Section 1313 (a) of the Code) of additional tax liability to reflect such Loss, (2) the payment by the Lessor to the Internal Revenue Service of the tax increase resulting from such Loss (or a reduction in the amount of any refund which the Lessor would have been entitled to receive but for the Loss), without any such determination following receipt of an opinion by mutually acceptable independent tax counsel to the effect that there is no reasonable basis to contest any assertion of additional tax (or reduction in a claim for refund) by the Internal Revenue Service, or (3) payment of the Refund Option. The Lessee shall be entitled to receive written notice of any proposed inclusion of such gross income and to contest such inclusion on the same terms as set forth in paragraph (d) of this Section 15. The Lessee shall, within 30 days after December 31 (or, if the Lessee's fiscal year end occurs on some other date, within 30 days of such other date) in each year in which the Lessee has made any Capital Expenditure give written notice thereof to the Lessor describing such Capital Expenditure in reasonable detail and specifying the cost thereof.

(g) All of the Lessor's rights and privileges arising from the indemnities contained in this Section 15 shall survive the expiration or other termination of this Lease with respect to any or all Items of Leased Equipment and such indemnities are expressly made for the benefit of and shall be enforceable by the Lessor, its successors and assigns.

#### SECTION 16. Lease Extension.

(a) Provided that this Lease has not been terminated and provided that no Event of Default has occurred and is continuing hereunder,

the Lessee shall have the option to extend the term of this Lease with respect to all, but not less than all, Items of Leased Equipment at the Expiration Date or any renewal thereof for a maximum of three successive periods of two years each and for a rental equal to the Fair Market Rental Value thereof determined as of the date such renewal term commences (the Option Commencement Date).

(b) Not less than 180 days prior to the Expiration Date, or any renewal thereof, the Lessee may indicate, by written notice to the Lessor, the Lessee's interest in exercising the Lessee's lease extension options described in subsection (a) above, which notice shall set forth the Lessee's estimate of the Fair Market Rental Value of such Equipment as of the Option Commencement Date. If, on or before a date 125 days prior to such Option Commencement Date, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value of such Equipment, such Fair Market Rental Value shall be determined in accordance with the procedure for Appraisal. After a determination of the Fair Market Rental Value of such Equipment has been made in accordance with the procedure described above, the Lessee may exercise its option to extend the term of this Lease with respect to said Equipment for the Fair Market Rental Value thereof by delivering written notice of such exercise to the Lessor not less than 60 days prior to the Option Commencement Date; provided, however, that in any event the Lessee shall have 15 days from the date such Fair Market Rental Value has been determined within which it may exercise the foregoing option.

(c) Fair Market Rental Value shall be determined on the basis of and shall mean the aggregate amount which would be obtainable in an arm's-length transaction between an informed and willing lessee and an informed and willing lessor under no compulsion to lease.

#### SECTION 17. Events of Default.

The term Event of Default, wherever used herein, shall mean any of the following events under the Lease (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) The Lessee shall fail to make any payment of Rent within 10 days after the same shall become due; or

(b) The Lessee shall fail to perform or observe any other covenant, condition, or agreement to be performed or observed by it under this Lease or any agreement, document or certificate delivered by the Lessee in connection herewith, and such failure shall continue for 20 days after written notice thereof from the Lessor to the Lessee; or

(c) Any representation or warranty made by the Lessee in this Lease or the Participation Agreement or in any document or certificate furnished to the Lessor in connection herewith shall prove to have been incorrect in any material respect when any such representation or warranty was made or given; or

(d) A petition in bankruptcy shall be filed by the Lessee, or the Lessee shall make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver; or a trustee or a receiver shall be appointed for the Lessee, with respect to the interest of the Lessee in any Item of Leased Equipment or for a substantial part of its property without its consent and shall not be dismissed within a period of 60 days; or bankruptcy, reorganization or insolvency proceedings shall be instituted against the Lessee and shall not be dismissed for a period of 60 days; or

(e) The Lessee shall be in default under any material obligation for the payment of borrowed money or for the deferred purchase price of, or for the payment of any rent under any lease agreement covering, material real or personal property, and the applicable grace period with respect thereto shall have expired and the obligations shall not be contested in good faith; or

(f) The Lessee shall attempt to remove, sell, transfer, encumber, part with possession of, assign or sublet (except as expressly permitted by the provisions of this Lease) any Item of Leased Equipment.

#### SECTION 18. Remedies.

(a) Upon the occurrence of any Event of Default, the Lessor may, at its option, declare this Lease to be in default by written notice to such effect given to the Lessee, and at any time thereafter, the Lessor may exercise one or more of the following remedies, as the Lessor in its sole discretion shall lawfully elect:

(1) Proceed by appropriate court action, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(2) By notice in writing terminate this Lease, whereupon all rights of the Lessee to the use of the Leased Equipment shall absolutely cease and terminate but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessee, if so requested by the Lessor, shall at its expense promptly return the Leased Equipment to the possession of the Lessor at the place and in the condition required upon the return thereof pursuant to and in accordance with Section 5(b) hereof, or the Lessor, at its option, may enter upon the premises where the Leased Equipment is located and take immediate possession of and remove the same by summary proceedings or otherwise.

The Lessee shall, without further demand, forthwith pay to the Lessor an amount equal to any unpaid Rent due and payable for all periods up to and including the Basic Rent Date following the date on which the Lessor has declared this Lease to be in default, plus, as damages for loss of a bargain and not as a penalty, an amount equal to the Casualty Value of the Leased Equipment then subject to this Lease, computed as of the Basic Rent Date following the date on which the Lessor has declared this Lease to be in default. Following the return of the Leased Equipment to the Lessor pursuant to this paragraph (2), the Lessor shall proceed to sell the Leased Equipment in such manner as it shall deem appropriate. The proceeds of such sale shall be applied by the Lessor (A) first, to all costs, charges and expenses, including reasonable legal fees and disbursements, incurred by the Lessor as a result of the default and the exercise of its remedies with respect thereto, and (B) second, to reimburse the Lessee for the Casualty Value to the extent previously paid by the Lessee as damages. Any surplus remaining thereafter shall be retained by the Lessor. To the extent that the Casualty Value has become due but not been previously paid, the Lessee shall forthwith pay to the Lessor the sum of (i) the amount by which (X) the sum of (a) the Casualty Value thereof, and (b) the amount payable under clause (A) of the second preceding sentence, exceeds (Y) the sale price of the Leased Equipment, and (ii) interest at the Overdue Rate on the full amount of the Casualty Value, computed from the date the Casualty Value is payable hereunder until such Casualty Value is paid by the Lessee.

(b) The Lessee shall be liable for all costs, charges and expenses, including reasonable legal fees and disbursements, incurred by the Lessor by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto.

(c) No remedy referred to herein is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to the Lessor at law or in equity. No express or implied waiver by the Lessor of any default or Event of Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent default or Event of Default. The failure or delay of the Lessor in exercising any rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies and any single or partial exercise of any particular right by the Lessor shall not exhaust the same or constitute a waiver of any other right provided herein.

SECTION 19. Right of First Refusal.

(a) Provided that no Event of Default has occurred and is continuing hereunder, the Lessor agrees that, during the term of this Lease or any extension thereof and for 30 days following the expiration of the term of this Lease or any extension thereof with respect to any Item of

Leased Equipment, it will not lease or sell such Item of Leased Equipment unless the Lessor shall have given the Lessee at least 15 Business Days' prior written notice of any intended lease or sale, specifying the rental or sale price and the terms of such lease or sale, and the Lessee shall have the opportunity during said period to lease or purchase such Item of Leased Equipment at the same rental or price and on the same terms as specified in such notice.

(b) In the event the Lessee exercises such right of first refusal to purchase any Item of Leased Equipment, then, upon payment of the purchase price, the Lessor shall, upon request of the Lessee, execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Item of Leased Equipment is free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor) for such Item of Leased Equipment, and such other documents as may be required to release such Item of Leased Equipment from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

SECTION 20. Performance of Obligations of Lessee by Lessor.

If an Event of Default should occur hereunder, the Lessor may thereafter make the payment or perform or comply with the agreement, the nonpayment, nonperformance or noncompliance with which caused such Event of Default, and the amount of such payment and the amount of the reasonable expenses of the Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest at the Overdue Rate as set forth in Exhibit C, shall be payable by the Lessee upon demand by the Lessor.

SECTION 21. Voluntary Termination.

(a) The Lessee shall have the right on the Termination Date to terminate this Lease with respect to all, but not less than all, Items of Leased Equipment subject to this Lease; provided, however, that no Event of Default, or event which with the giving of notice or the lapse of time, or both, would become an Event of Default, shall have occurred and be continuing, and provided, further that the Lessee shall have given the Lessor at least 180 days' prior written notice of its intention so to terminate this Lease.

SECTION 22. Notices.

All communications and notices provided for herein shall be in writing and shall become effective when deposited in the United States mail, with proper postage for first-class mail prepaid, addressed (a) if to the Lessor, at P.O. Box 30007, Salt Lake City, Utah 84125, Attention: Trust Department, Corporate Division (with copies to (1) Itel Capital

Services Corporation, at One Embarcadero Center, San Francisco, California 94111, Attention: Contract Administration, (2) the Trustee, at 130 John Street, New York, New York 10038, Attention: Corporation Trust and Agency Division and (3) each Beneficiary, at its address set forth in Exhibit C hereto), and (b) if to the Lessee, at its address set forth on the signature page hereof.

SECTION 23. Amendments and Miscellaneous.

(a) The terms of this Lease shall not be waived, altered, modified, amended, supplemented or terminated in any manner whatsoever except by written instrument signed by the Lessor and the Lessee; provided that no such waiver, alteration, modification, amendment or supplement shall make any change, and no termination shall be made, which is prohibited by the Indenture or any Supplement executed in conjunction with this Lease.

(b) This Lease, including all agreements, covenants, representations and warranties made herein or in any certificate delivered pursuant hereto, shall be binding upon and inure to the benefit of (1) the Lessor and its successors, assigns, agents, servants and personal representatives, and, (2) each Beneficiary, (3) the Trustee, as assignee and secured party, and the successors, assigns, agents, servants and personal representatives of each Beneficiary and the Trustee as assignee and secured party, (4) any holder of the obligations of the Lessor issued in connection with this Lease, and (5) the Lessee and its successors and, to the extent permitted hereby, assigns. Without limiting the generality of the foregoing, with respect to the provisions of Sections 6, 8, 13 and 15 hereof, each Beneficiary, the Trustee as assignee and secured party, any holder of obligations of the Lessor issued in connection with this Lease, and the successors, assigns, agents, servants and personal representatives of the foregoing shall each be indemnified thereunder and, with respect to clause (b) of the proviso to Section 13 hereof, the wilful misconduct or gross negligence of the Lessor or any one such person shall not affect the rights of any other person indemnified under such Section 13.

(c) All agreements, indemnities, covenants, representations and warranties contained in this Lease or in any document or certificate delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Lease and the expiration or other termination of this Lease.

(d) Any provision of this Lease which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

(e) This Lease shall constitute an agreement of lease and nothing herein shall be construed as conveying to the Lessee any right, title or interest in or to the Leased Equipment, except as lessee only.

(f) The single executed original of this Lease marked "Original" shall be the "Original" and all other counterparts hereof shall be marked and be "Duplicates". To the extent that this Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Lease may be created through the transfer or possession of any counterpart other than the "Original".

(g) This Lease shall be construed in accordance with, and shall be governed by, the laws of the State of Texas.

(h) Section headings are for convenience only and shall not be construed as part of this Lease.

(i) Although this Lease is dated as of the date first above written for convenience, the actual dates of execution hereof by the parties hereto are respectively the dates set forth opposite the signatures hereto, and this Lease shall be effective on the latest of such dates.

IN WITNESS WHEREOF, the parties hereto have each caused this Lease to be duly executed by their respective officers thereunto duly authorized.

FIRST SECURITY BANK OF UTAH, N.A.,  
not in its individual capacity, but  
solely as trustee under a Master  
Trust Agreement dated as of October  
1, 1976 between it and Itel Capital  
Services Corporation,  
as Lessor

By \_\_\_\_\_  
Authorized Officer

Date \_\_\_\_\_

PENNZOIL COMPANY,  
as Lessee

By *Wain P. Kess*  
Authorized Officer **PRESIDENT**

Date *July 27, 1978*

[SEAL]

Address: Pennzoil Place  
P.O. Box 2967  
Houston, Texas 77001

Attention: Harold E. Sortor  
Vice President

*in O E  
HCK  
AS*

The undersigned hereby certifies that the person executing this Lease on behalf of the Lessee holds the indicated office, was duly elected thereto and at all relevant times has been a duly qualified and acting officer of the Lessee.

Sally Hays  
SECRETARY

Date July 27, 1978

The undersigned attorneys have affixed their signatures below to confirm that the provisions of the foregoing agreement relating to arbitration were included on the advice of counsel.

David A. Burns  
David A. Burns, Attorney for  
Pennzoil Company

\_\_\_\_\_, Attorney for  
First Security Bank of Utah, N.A.  
not in its individual capacity,  
but solely as trustee under a  
Master Trust Agreement dated as  
of October 1, 1976 between it and  
Itel Capital Services Corporation.

STATE OF TEXAS, )  
 ) ss.:  
COUNTY OF Harris )

On this 27<sup>th</sup> day of July, 1978, before me personally appeared Bain P. Kerr, to me personally known, who, being by me duly sworn, says that he is President of PENNZOIL COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Carolyn Gads  
Notary Public

[Notarial Seal]

My Commission expires 2-2-80

STATE OF UTAH, )  
 ) ss.:  
COUNTY OF ) .

On this \_\_\_\_\_ day of \_\_\_\_\_, 1978, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that he is \_\_\_\_\_ of FIRST SECURITY BANK OF UTAH, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires

DESCRIPTION OF EQUIPMENT

<u>Groups of Equipment</u>	<u>Quantity (a)</u>	<u>Manufacturer</u>	<u>Lessee's Identification Numbers (Both Inclusive)</u>	<u>Description (b)</u>
1	100	Richmond Tank Car Company	DVLX 1001 DVLX 1100	13,500 Gallon Exterior Coiled and Insulated Tank Cars for Molten Sulfur Service; AAR Designation DOT 111A100W1

(a) Equipment in a Group of Equipment shall include such additional quantities of Items of Equipment specifically described above as the Lessee shall include in a Certificate of Acceptance; provided, however, that in no event shall either (i) the Lessor's Cost of any such additional Item of Equipment exceed 115% of the Estimated Lessor's Cost, as such term is defined in the Participation Agreement, of any Item of Equipment specifically described, or (ii) the Maximum Financing Cost, Maximum Investment Commitment or Maximum Loan Commitment, as such terms are defined in the Participation Agreement, be exceeded, without the express approval of each affected party.

(b) Upon the prior written consent of the Lessor, which consent shall not be unreasonably withheld, additional equipment not specifically described above may be included as Equipment for the purposes hereof; provided, however, that in no event shall the Maximum Financing Cost, Maximum Investment Commitment or Maximum Loan Commitment, as such terms are defined in the Participation Agreement, be exceeded without the express approval of each affected party; and provided, further, that no such additional equipment shall be or become an Item of Leased Equipment unless and until the Lessee shall have taken, or caused to be taken, all such action as may be required under and pursuant to the Participation Agreement to perfect, protect and preserve the Lien granted to the Trustee by the Lessor under and pursuant to the Indenture and the related Supplement.

CERTIFICATE OF ACCEPTANCE NO. \_\_\_\_

under

Equipment Lease dated as of March 21, 1978 (the Lease) between FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity, but solely as trustee under a Master Trust Agreement dated as of October 1, 1976 between it and Itel Capital Services Corporation as lessor (the Lessor) and PENNZOIL COMPANY, as lessee (the Lessee).

1. Items of Equipment

The Lessee hereby certifies that the Items of Equipment set forth and described in Schedule 1 hereto (which Schedule includes the amount of the Lessor's Cost of each such Item), constituting Items of Equipment of the Group of Equipment indicated below, have been delivered to the location indicated below, tested and inspected by the Lessee, found to be in good order and accepted as Items of Leased Equipment under the Lease, all on the date indicated below:

Group of Equipment:

1

Location of Items of Equipment:

Date of Acceptance:

Markings:

2. Representations by the Lessee

The Lessee hereby represents and warrants to the Lessor, each Beneficiary, the Trustee, each Long-Term Lender and the Interim Lender, if any, as such terms are defined in the Lease, that on the Date of Acceptance with respect to each Item of Leased Equipment:

(1) the representations and warranties of the Lessee set forth in the Participation Agreement, as such term is defined in the Lease, are true and correct in all material respects on and as of such date as though made on and as of such date;

(2) the Lessee has satisfied or complied with all requirements set forth in the Participation Agreement and in the Lease to be satisfied or complied with on or prior to such date;

(3) no Event of Default under the Lease or event which, with the giving of notice or the lapse of time, or both, would become such an Event of Default has occurred and is continuing; and

(4) the Lessee has obtained, and there are in full force and effect, such insurance policies with respect to such Item of Leased Equipment required to be obtained under the terms of the Lease.

PENNZOIL COMPANY,  
as Lessee

By \_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_

Accepted on the Date of Acceptance set forth in paragraph 1 above on behalf of the Lessor:

FIRST SECURITY BANK OF UTAH, N.A.,  
not in its individual capacity,  
but solely as trustee under a  
Master Trust Agreement dated as  
of October 1, 1976 between it and  
Itel Capital Services Corporation,  
as Lessor

By \_\_\_\_\_  
Authorized Representative

SCHEDULE 1 TO  
CERTIFICATE OF ACCEPTANCE NO. \_\_\_\_\_

Description of Equipment and Lessor's Cost:

<u>Quantity</u>	<u>Manufacturer or Seller</u>	<u>Description</u>	<u>Identification Number</u>	<u>New or Used</u>	<u>Lessor's Cost</u>
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Total Lessor's Cost \$ \_\_\_\_\_

EXHIBIT C

Group 1 Equipment  
(20-year Basic Lease Term)

Date of Lease: As of March 21, 1978

Beneficiary: Republic National Leasing Corporation  
P. O. Box 146  
400 North St. Paul, Suite 1110  
Dallas, Texas 75221  
Attention: Harold C. Hunter  
Vice President -  
General Manager

Daily Lease Rate Factor: 1/360 of 120% of the prime interest rate of the Bank of America; National Trust & Savings Association (being the best per annum rate of interest charged by such Bank to its prime large commercial customers on short-term unsecured borrowings) in effect with respect to an Item of Leased Equipment and as adjusted from time to time thereafter to reflect all changes in such prime interest rate effective on the next business day following each change in such prime interest rate.

Rent Commencement Date: The Closing Date on which the applicable Item shall have been paid for by the Lessor

Basic Rent Dates: The fifteenth day of January and July in each year

Expiration Date: January 15, 1999

First Delivery Date: June 1, 1978

Final Delivery Date: December 31, 1978

Interim Rent Date: January 15, 1979

First Basic Rent Date: July 15, 1979

Last Basic Rent Date: January 15, 1999

Termination Date: January 15, 1994

Basic Lease Rate Factor:

Basic Rent Payment Nos. 1-30	5.0767%
Basic Rent Payment Nos. 31-40	3.3786%

Overdue Rate: One per cent in excess of the applicable Long-Term Debt Rate set forth in the Participation Agreement.

Equipment Marking: In letters not less than 1 inch in height: "Ownership subject to a Security Agreement filed under the Interstate Commerce Act, Section 20C."

Return of Equipment: The Lessee shall, at its own expense, return each Item of Leased Equipment to the Lessor at such location, within a radius of 1,000 miles of the point of delivery of such Item, as the Lessor shall select.

Investment Credit: Not applicable. The Lessor agrees to elect pursuant to section 48(d) of the Code, to treat the Lessee, for purposes of the investment tax credit provided by sections 38 and 50 of the Code, as the original purchaser and user of the Leased Equipment and shall provide the Lessee with the necessary documentation to evidence and implement said election.

Depreciable Life:

A 12-year depreciable life pursuant to section 167(m) of the Code for an asset described in Asset Guideline Class No. 00.25.

Depreciation Method:

Double declining balance method switching to the sum-of-the-years digits method without the prior consent of the Commissioner of Internal Revenue utilizing the "modified half-year" convention pursuant to Reg. section 1.167(a)-11 (c)-(2) and taking into account the Salvage Value of the Leased Equipment.

Salvage Value:

An amount equal to 10% of the Lessor's Cost of the Leased Equipment, which amount will be reduced by 10% of the Lessor's Cost as provided in section 167(f) of the Code.

EXHIBIT D  
Group 1 Equipment

The Casualty Value, if any, of each Item of Leased Equipment shall be the percentage of Lessor's Cost of such Item set forth opposite the applicable rent payment:

<u>Interim Rent Date and Rent Payment Number</u>	<u>Casualty Value (a)</u>
1979	
Interim Rent Date	108.4175 %
1	108.6234
1980	
2	108.5688
3	108.3101
1981	
4	107.8350
5	107.1725
1982	
6	106.3047
7	105.2572
1983	
8	104.0163
9	102.6039
1984	
10	101.0110
11	99.2557
1985	
12	97.3336
13	95.2591
1986	
14	93.0325
15	90.6640
1987	
16	88.1605
17	85.5269
1988	
18	82.7743
19	79.9055
1989	
20	76.9359
21	73.8646
1990	
22	70.7123
23	67.4740
1991	
24	64.1761
25	60.8063
1992	
26	57.3889
27	53.9056

<u>Rent Payment Number</u>	<u>Casualty Value (a)</u>
1993	50.3772 %
28	46.7837
29	
1994	43.1482
30	41.1151
31	
1995	39.0478
32	36.9187
33	
1996	34.7284
34	32.4596
35	
1997	30.1254
36	27.7085
37	
1998	25.2219
38	22.6481
39	
1999	20.0000
40	

and thereafter

(a) In the event the Basic Lease Rate Factor is increased, pursuant to the tax indemnification provisions set forth in Section 15 of the Lease, Casualty Values and Termination Values, if any, shall be adjusted accordingly.